

# THE BRAILLE MONITOR

INKPRINT EDITION

VOICE OF THE NATIONAL FEDERATION OF THE BLIND



The National Federation of the Blind is not an organization speaking for the blind--it is the blind speaking for themselves

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## THE BRAILLE MONITOR

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CONVENTION IN SESSION: A typical afternoon session of the Louisville convention.



PLATFORM SCENE: A typical moment of pre-session activity at the NFB annual convention.



## THE SPIRIT OF LOUISVILLE

The 1966 convention of the National Federation of the Blind has become history. It has also made history.

During four productive and action-packed days -- from Tuesday, July 5, through Friday, July -- the Louisville convention affirmed long-established basic principles of federationism, discussed some fundamental new objectives, and reviewed the relationship of the Federation to the developing social environment.

The spirit of Louisville was symbolized by the restoration to the presidency of its longtime leader, Professor Jacobus tenBroek. The founder of the National Federation and its president for 21 years, tenBroek took the helm after an absence of five years with a ringing call for "reinforcement, reassessment, and renewal."

The spirit of Louisville was mirrored in a striking series of resolutions unanimously passed by the delegates -- resolutions which recognize and support new developments in public welfare and the war on poverty, committing the organized blind to active participation along a broad front of social struggle and reform.

The spirit of Louisville was displayed in a speech by the famous blind psychologist, Dr. Herbert Greenberg -- titled "Action in an Action World" -- calling upon the organized blind to take advantage of strategic techniques and patterns of action developed in the civil rights movement.

The spirit of Louisville was evident in another panel of experts on local and state organizations of the blind, chaired by Kenneth Jernigan and featuring an array of Federation leaders: Don Capps, Harold Reagan, George Bonsky, and Albert Banducci. The theme of their lively discussion was powerfully underlined in speeches delivered by Capps (president of the Aurora Club of South Carolina) and by Manuel Rubin (president of the Associated Blind of Massachusetts), relating the successful uphill fights of their state groups to establish independent commissions for the blind.

The spirit of Louisville shone forth in the speeches of several distinguished foreign visitors: Japan's Keiji Sawada, who brought greetings also from the president of the Japanese Federation of the Blind; Jason Mutugi of Kenya, a pioneer federationist in the developing African nation; Dr. Heinrich Baumhof, Third Secretary of the German Embassy in the U.S., and Lucy Senkevitz of Montreal, Canada.

The spirit of Louisville became apparent in the excited discussion which followed the presentation of the Federation's model white cane law,

drawn up by Professor tenBroek and Russ Kletzing.

The spirit of Louisville was embodied in the stalwart figure of Ken Jernigan as he filled in for no less than eight leaders of COMSTAC (Commission on Accreditation and Standards for the Blind) -- all of whom were invited and all of whom failed to appear for a panel of discussion on standards, which thereupon turned into a stimulating hour-and-a-half talk on the subject by Jernigan (himself the director of a state agency for the blind).

The spirit of Louisville was apparent in the granting of a charter of affiliation to the Free State Federation of Blind (Maryland) -- where an organization composed of a single chapter was transformed into a statewide organization with two chapters, as the result of a human and democratic victory over personal conflicts and racial issues.

The spirit of Louisville was also expressed in a series of events and actions of less dramatic and more conventional nature which nevertheless demonstrated the ongoing continuity of the National Federation. That spirit was reflected in the addresses of a succession of distinguished guests: Dr. Harry M. Sparks, superintendent of public instruction for the state of Kentucky; John Hurley, deputy director of the Bureau of Family Services, Public Welfare Administration, Department of Health, Education and Welfare; Edward F. Rose, director of employment programs for the handicapped, U.S. Civil Service Commission, and Dr. Theodore D. Sterling, computer expert from Washington University of St. Louis.

That traditional spirit of serious discussion and social concern was displayed in a panel devoted to "The Crusade Against Poverty," in which Professor tenBroek joined Norman Kurland of the Citizens Crusade Against Poverty and Perry Sundquist, chief of the Division for the Blind in California, in an informed exploration of this major contemporary issue.

Other educational presentations which were of direct interest to conventioners included a talk on ultrasonic travel aids by Fred Gissoni; a presentation on "compressed speech" technology by Emerson Foulke of the University of Louisville, and the appearance of two talking book readers whose voices were widely familiar, Mrs. Terry Hayes Sales and Paul A. Clark.

The spirit of continuity and tradition was manifested in the president's report by Russell Kletzing, which drew prolonged applause after its recitation of the immense accomplishments of four years past; in the congressional report of the NFB's Washington representative, John Nagle; in Tony Mannino's white cane week report; in the report of Treasurer Franklin

Van Vliet, and in Perry Sundquist's report for the budget and finance committee.

The spirits of everyone were raised by the announcement that the NFB convention will be going to the Old South in '69 -- specifically, to Charleston, South Carolina. As previously scheduled, the '67 convention will be in Los Angeles and the '68 meeting will be in Des Moines.

There was an abundance of convention spirit in the social events and convivial activities organized and carried out, in great profusion but with no confusion, by Convention Chairman Ken Jernigan and Kentucky Federation President Bob Whitehead. There were two unique and rewarding tours -- one to the American Printing House for the Blind, the other a very leisurely four-hour cruise on the Ohio River (attended by no less than 600 staunch federationists). There was much Southern hospitality each evening (including spirits of Louisville) in the Hospitality Room; and there were prizes, prizes, prizes -- a typewriter, a tape recorder, transistor radios, a savings bond, clocks and many others.

True to a spirited tradition, also, were the many meetings of special groups held during the convention: of blind teachers, led by Isabelle Grant; of correspondents, led by Dr. tenBroek; of the membership committee, the White Cane committee, and many others.

The spirit of Louisville, 1966, will not soon be forgotten by the many hundreds of delegates and their families fortunate enough to be on hand. The spirit of Louisville will live as long as the message of Louisville -- the theme of hope renewed -- survives in the minds and hearts of the organized blind.

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#### CONVENTION ACCLAIMS tenBROEK AS PRESIDENT

"Because of my unbounded faith in you, I am gratified to find that you have some faith in me."

With these words, Professor Jacobus tenBroek resumed the office of president of the National Federation of the Blind which he had previously held for 21 years after the organization's founding in 1940.

Thus occurred the high point of the 1966 convention and one of the highlights of 26 years of Federation history. This dramatic and wholly unexpected event followed the decision of Russell Kletzing, the Federation's president for the past four years, not to be a candidate for reelection -- a decision reached earlier and informally made known to many

delegates as they arrived at the convention. It thus came as no surprise when Russ declared at the conclusion of his president's report on the first afternoon of the convention that because of the growing requirements of his professional career and of his family he would not run again.

Ken Jernigan, as the man whom informal discussion among the delegates had generally singled out as the obvious successor to the office, then took the floor in an atmosphere of mounting suspense.

"Mr. President," he began, "I wish to make a brief statement and a motion." As the tension in the audience rose still further, Ken went on to say that at the urging of other Federation leaders he himself had given serious consideration to permitting his own name to be placed in nomination for the presidency, but "I have never felt right about it." For him it was proper to be Dr. tenBroek's "chief lieutenant but not his chief."

"During the last few days," Jernigan continued, "and again this morning, in this hotel, I discussed with Dr. tenBroek the reasons why he, our founder and leader, ought to run for the presidency at this time. Those shattering and best forgotten days of the civil war are over; and his spirit, his integrity, his value are now needed more than ever to carry us to new heights of unity and accomplishment -- but not as President Emeritus -- rather, as President."

Observing that Dr. tenBroek "this morning gave me a decision that permits this motion now," Ken went on to say "again that I will do everything that I can to assist Dr. tenBroek in the years ahead and that if the time comes when he cannot or will not allow his name to be placed in nomination for the presidency, I will definitely be a candidate for that office."

He then moved that the convention "unanimously, by acclamation, elect as its president Jacobus tenBroek."

There followed a demonstration the like of which Federationists had not experienced before -- unless it was on that other memorable occasion five years earlier when Professor tenBroek announced his resignation and retirement from the presidency. On both occasions the response of the delegates was not one merely of volume but of the expression of intense feelings. It was one of those rare times about which one can say truly that there was not a dry eye in the assemblage.

"There is no doubt of the sense of this convention," exclaimed Russ Kletzing after some minutes of demonstration. "President tenBroek, will you please come up here?"

The first extemporaneous words of the newly acclaimed leader of





WASHINGTONIAN WINS: Wes Osborne, head of the Washington Association of the Blind, receives a prize from Mrs. Ken Jernigan. In background: left, Jernigan; right, Russ Kletzing. In the right foreground, Dr. Isabelle Grant studies her notes.



the National Federation reflected the mood of the gathering: "A man ought not to come to these conventions unless he has a strong heart.

"We have lived together and worked together for a long time now, and most of you know that I'm a sentimental fellow. Because of my unbounded faith in you, I'm gratified to find that you have some faith in me.

"I saw Don Capps a little while ago and he said, as he has regularly for the past five years: 'You wouldn't be interested in being president, would you?' I replied, 'Do you think I'm mad?' And he said, 'Well, I suspect that you've had that kind of madness all the time I've known you.'

"It is a kind of madness," Dr. tenBroek continued. "A man, having once undertaken the burdens and responsibilities of this office, ought really in good sense not to be eager to shoulder them again.

"But as is true of you, so also it is true of me that the Federation gets in one's blood. In this movement we have a great cause to carry forward and to work for. It is not just a matter of our personal feelings and our private lives, if we have some sense of responsibility to others, some sense of obligation to contribute whatever we can to improve the lot of our fellows."

President tenBroek went on to speak of the work of Jernigan and Kletzing and of fruitful collaboration with them over the years. He gav-  
eled his first presidential session to adjournment with the request that the delegates give Russ Kletzing a standing ovation for his performance as president during the past four years.

The session ended with the delegates on their feet, applauding and cheering.

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## KENTUCKY KERNELS -- THE NFB CONVENTION

By Floyd S. Field  
President Niagara Chapter E. S. A. B.

Kentucky is famed for its blue grass,  
Mint juleps and Derby each May;  
When three year old nags,  
Forsake their feedbags,  
And "Run for the Roses" and hay.

Smaller than Alaska or Texas,  
Kentucky has plenty of room:  
    "Neath tree you see there,  
    Someone killed a bear;  
Me-thinks it was old Dan-el Boone.

This year's N. F. B. Convention,  
Was held in Kentucky Hotel,  
    In Louisville Town  
    Of Derby renown:  
We found hospitality swell.

Russell Kletzing called us to order,  
But didn't stay long in the chair:  
    Five hundred and more,  
    With deafening roar,  
Acclaimed tenBroek, who answered their prayer.

Detailed convention proceedings,  
Braille Monitor soon will adorn:  
    I'll give you relief,  
    And keep this verse brief;  
Please pardon these "kernels of corn."

"Ken" did a grand job as chairman,  
Though he spent much time "calling names":  
    And he took great care,  
    To see we were there,  
Rejecting all fraudulent claims.

Prizes from the states and chapters,  
Were attractive to young and old:  
    Wallets of sealskin,  
    Did twenty-four win,  
Some Alaskan seals may catch cold.

Printing House tour was instructive,  
And we Brailled its "two million" brain:  
    Some "readers" we met,  
    Our members got wet,  
When cloudburst brought torrents of rain.

The storm had abated by evening,  
And we cruised on the Louisville Belle:  
    While a Doctor Grant,  
    From lands far dis-tant,  
On some of us cast her warm spell.



Oh there were many attractions:  
Gissoni's display of Kaye Aid;  
Model law for White Cane,  
By our legal brains,  
Where it passes, we're on the upgrade.

Our banquet was really thrilling,  
With tenBroek's challenge to all  
To aid the tough fight,  
With all of our might;  
Will we heed his rallying call?

Yes, it was a grand convention,  
In spite of the plane scramble mad;  
It's on to "L. A. "  
And Hawaii-nei;  
Make both trips and you will be glad.

l'Envoi and Tribute:

A toast to Jacobus tenBroek,  
Our Leader in service to blind,  
With banner unfurled,  
Throughout the whole world,  
Where there is a need by mankind.

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## THE FUTURE OF THE FEDERATION: NEW ENDS AND NEW MEANS

"We have come a long way together . . . . It is time to take a long, hard look at what we are and where we are; to assess the obstacles and opportunities; to redefine our intermediate objectives, where necessary, and to set our course."

These words of the Federation's president, Jacobus tenBroek, in his memorable banquet address not only revealed the theme of his speech but bespoke the tone of the convention.

The Louisville convention came at the end of a year of activity testing new approaches on a variety of fronts, as well as maintaining and advancing those programs which the Federation has steadily pursued over the years. This activity found reinforcement and further development during the spirited four days at Louisville. Prominent among the themes under discussion were:

The implications for the organized blind of the existence and content of a separate and discriminatory law of the poor;

New methods, measures and legal provisions for solving the problems of unemployment, discrimination, and inadequate opportunity;

The significance to our cause of the overall antipoverty movement in the nation, its programs and organizations;

Relationships with blind people and associations elsewhere in the world, and the furtherance of the International Federation of the Blind;

"Agencies for the blind and agencies against the blind."

The convention took specific action with respect to each of these areas of interest and concern. Those actions are detailed in articles to follow.

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## NEW ENDS: ABOLITION OF THE LAW OF THE POOR

"Our enterprise," said Professor tenBroek in his banquet speech to the Louisville convention, "has been at once a movement of action and a movement of ideas, with each dimension energizing and fortifying the other. We have played a pioneering role in what might be called the philosophical exposure of the law of the poor as a separate, distinct and discriminatory structure in welfare and elsewhere."

The Federation's president pointed out that this work of scholarship and argument, of thought and investigation, had found its way into academic conferences, journal articles, public addresses and panel discussions -- thus stimulating others to join the campaign and take up the cause.

"In our movement ideas are weapons, often the ultimate weapons," he declared. "For as we disseminate knowledge of the enormity of the legal gulf separating the 'two nations,' the nation of the poor and the nation of the comfortable, as we intensify the understanding of scholars, judges, lawyers, legislators and planners concerning the inequality and injustice of this dual system of law, as we maintain the necessity of applying the constitution to our welfare system and bestowing its benefits on the poor -- great new vistas of social and human improvement are opened up."

The campaign to knock out the Elizabethan poor law once and for

all, said Professor tenBroek, is no mere charitable undertaking on the part of the blind. For they too are involved in poverty and in the programs warring upon it. "Welfare provisions for the blind are part of the overall system of the law of the poor. While compared with other groups who inhabit that region the lot of the blind may be special and favorable, they cannot gain ultimate release into the larger community until that overall system is demolished.

"Once that is done," he asserted, "the constructive work of positively fitting the blind into the law of the new environment still remains to be performed. And this, too, is a particular responsibility and opportunity assigned to us."

Suiting the action to the word, the Louisville convention voted enthusiastic approval of a resolution (66-01) committing the organization to "take all actions necessary in the furtherance of the cause and movement to apply the law equally and equitably to all Americans alike, that there may be no longer one law for advantaged Americans and another law for disadvantaged Americans, but that there may be only one law for all Americans."

The resolution declared that "the law of the disadvantaged, aptly and appropriately described by Dr. tenBroek as 'the law of the poor,' denies to the poor their full constitutionally guaranteed rights of American citizenship, and equality of treatment by the law and in the courts, and thereby perpetuates and reinforces the conditions of poverty, inferiority and dependency."

The resolution emphasized that "the blind of America suffer from and share with other disadvantaged citizens the iniquities and injustices of the law, since many of them are poor and all of them are subjected to discriminatory attitudes embodied in legal provisions and expressed in judicial decisions."

In his banquet address President tenBroek called upon the Federation to "discern and formulate the ways in which the policy of integration of the blind into society must result in reorganization of society and its laws" -- as has been done in public assistance, employment in public service and teaching in the public schools.

"Before the action," he pointed out, "must come the thought; before the deed must come the doctrine; before the organization must come the conception; before the preacher must come the gospel."

## NEW MEANS: A MODEL WHITE CANE LAW

A model white cane law, which would afford protection to blind pedestrians on the streets and highways -- and also would prohibit discrimination against the blind in public employment and in access to public buildings -- was presented and explained to the Louisville convention by its two law-trained authors, President Jacobus tenBroek and former president Russell Kletzing.

Professor tenBroek is the holder of three law degrees and author of numerous legal works, while Kletzing is assistant chief counsel of a department of state government. Their draft proposal is the outgrowth of an article by Professor tenBroek published in the California Law Review (May 1966), "The Right to Live in the World -- The Disabled in the Law of Torts."

Following the presentation by the two Federation leaders, the convention unanimously approved a resolution endorsing the model white cane law and urging affiliated members to do all possible to secure its enactment into law.

The resolution recalled that "William Taylor of Media, Pennsylvania, and other leaders of the organized blind movement, beginning nearly a quarter century ago, have traveled throughout the nation and persuaded legislature after legislature to adopt a White Cane Traffic Law for the protection of blind persons walking alone upon the streets and highways of America, until today 49 states have such laws."

But it was maintained that these laws have been rendered inadequate by today's greatly changed traffic and traveling conditions, that "some court decisions have had the effect of stripping blind pedestrians of their right of free and unhampered movement, and almost made of them trespassers upon the public ways, and that state motor vehicle enforcement officials have failed to act positively in upholding and enforcing the spirit of White Cane Laws."

In their convention presentation of the draft proposal for a model white cane law, tenBroek and Kletzing emphasized that the model statute does the following things:

1. It makes explicit and clear the policy of the state to encourage and enable the physically disabled to participate in social and economic activity and to engage in remunerative employment. This policy is often presumed; it is frequently implied in existing programs. It should now be made definite and expressly declared. It underlies the federal-state rehabilitation program, the self-care and self-support provisions of

public assistance, programs for the education of disabled children and youth, white cane laws existing in 49 states, orientation center and home teacher counselor programs, state and national statutes forbidding discrimination against the disabled in employment.

2. It makes clear that the physically disabled have the same right as other to use the streets and sidewalks, to be in public buildings and other public places, to ride in public conveyances, and to have full and equal access to places of public accommodation, amusement and resort. Instances of interference with these rights are not uncommon.

3. It gives blind persons the right to take a guide dog with them into public conveyances and places of public accommodation. Twenty-five states now have statutes to this effect. The model law would put these upon a uniform basis and would protect the right in the remaining states.

4. It simplifies, unifies and improves the white cane laws now existing in 49 states giving blind people a measure of safety in traveling about the streets and sidewalks.

5. The governors are asked to take suitable public notice of October 15 as White Can Safety Day and to call the attention of the citizens of the state annually to the significance of the white cane and the other policies of the state regarding the disabled.

6. It makes clear that it is the policy of the state to forbid discrimination against the physically disabled in public employment, unless it is shown that the particular disability prevents the performance of the work.

Following is the text of the Model White Cane Law.

#### Model White Cane Law

1. It is the policy of this State to encourage and enable the blind, the visually handicapped, and the otherwise physically disabled to participate fully in the social and economic life of the State and to engage in remunerative employment.

2.(a) The blind, the visually handicapped, and the otherwise physically disabled have the same right as the able-bodied to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places;

2.(b) The blind, the visually handicapped, and the otherwise physically disabled are entitled to full and equal accommodations, advantages,



facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, street cars, boats or any other public conveyances or modes of transportation, hotels, lodging places, places of public accommodation, amusement or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons;

2. (c) Every totally or partially blind person shall have the right to be accompanied by a guide dog, especially trained for the purpose, in any of the places listed in section 2(b) without being required to pay an extra charge for the guide dog; provided that he shall be liable for any damage done to the premises or facilities by such dog.

3. The driver of a vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominantly white or metallic in color (with or without a red tip) or using a guide dog shall take all necessary precautions to avoid injury to such blind pedestrian, and any driver who fails to take such precautions shall be liable in damages for any injury caused such pedestrian; provided that a totally or partially blind pedestrian not carrying such a cane or using a guide dog in any of the places, accommodations or conveyances listed in section 2, shall have all of the rights and privileges conferred by law upon other persons, and the failure of a totally or partially blind pedestrian to carry such a cane or to use a guide dog in any such places, accommodations or conveyances shall not be held to constitute nor be evidence of contributory negligence.

4. Any person or persons, firm or corporation, or the agent of any person or persons, firm or corporation who denies or interferes with admittance to or enjoyment of the public facilities enumerated in section 2 or otherwise interferes with the rights of a totally or partially blind or otherwise disabled person under section 2 shall be guilty of a misdemeanor.

5. Each year, the Governor shall take suitable public notice of October 15 as White Cane Safety Day. He shall issue a proclamation in which:

(a) he comments upon the significance of the white cane;

(b) he calls upon the citizens of the State to observe the provisions of the White Cane Law and to take precautions necessary to the safety of the disabled;

(c) he reminds the citizens of the State of the policies with respect to the disabled herein declared and urges the citizens to cooperate in giving effect to them;

(d) he emphasizes the need of the citizens to be aware of the presence of disabled persons in the community and to keep safe and functional for the disabled the streets, highways, sidewalks, walkways, public buildings, public facilities, other public places, places of public accommodation, amusement and resort, and other places to which the public is invited, and to offer assistance to disabled persons upon appropriate occasions.

6. It is the policy of this State that the blind, the visually handicapped, and the otherwise physically disabled shall be employed in the State Service, the service of the political subdivisions of the State, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as the able-bodied, unless it is shown that the particular disability prevents the performance of the work involved.

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## THE RIGHT TO LIVE IN THE WORLD

[ An excerpt from the banquet address by President Jacobus tenBroek before the Louisville convention, July 7, 1966. ]

We must secure legislative enactments and judicial decisions to safeguard and enforce the right to live in the world. This right means that the disabled are not to be confined to their houses and institutions, threatened if they emerge not only with social sanctions but with legal sanctions as well, in the form of legal barriers, disadvantages and inadequate protections. Nature may confine them to an iron lung, a bed, a wheel chair, straps, braces, and crutches, or moldering in health and idleness in chairbound blindness; but mistaken public and family attitudes and the dependent law may not so confine them. Such would in effect be a form of house arrest which in the houses of the poor may not be noticeably better than outright imprisonment.

Because of the importance of the right to be abroad in the community, personal liberty, in this basic sense of the right not to be unjustly or causelessly confined, has been taken as a fundamental natural and social right in Chapter 39 of Magna Carta and the Due Process Clause of the Federal and State Constitutions. If the disabled have the right to live in the world, they must have the right to make their way into it. Therefore they must be entitled to use the indispensable means of access on terms that will make the original right effective. They have a right, on such terms, to the use of the streets, walks, roads, and highways. This is a rock-bottom minimum. The right to gain access to the world in which they have a right to live must also include, as a part of the same

rock-bottom minimum, the right to utilize the common thoroughfares by riding in common carriers. Upon descending from them, or independently of getting into them, for that matter, the disabled have a right of uninhibited and equal access to places of public accommodation to seek their ease, rest, sustenance, or recreation.

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## NEW MEANS: A DISABLED RIGHTS ACT

The preparation of a measure modeled after the civil rights legislation, to be known as a bill for "the rights of the physically disabled," was called for by the National Federation in a resolution approved by the Louisville convention.

Recalling that Congress has acted since 1957 to outlaw discrimination against persons because of their race, creed, color or national origin, and that "there is a developing awareness that all Americans should and must be judged on their individual merits, that they should not and must not continue to be misjudged and condemned to unequal opportunity and disadvantaged condition because of circumstances beyond their wish or ability to change," the convention resolution pointed out that "physically disabled men and women are not included in this developing equal rights awareness and movement."

The disabled "have worked hard and long and waited patiently for the day when public attitudes of disparagement toward them would change and when discrimination against them would cease," the NFB delegates said in their resolution.

It was pointed out that "manifestations of ability and demonstrations of competence by physically disabled persons have become commonplace; but notwithstanding, physically disabled persons remain captive of the thinking of the past, continue as victims of misguided benevolence, and of unwanted and unneeded custodial care and supervision."

The resolution, which was adopted by unanimous vote of the convention on July 8, directed the Federation's "officers and staff to take the initiative, in cooperation with the representatives of other organizations and associations of physically disabled men and women, in the development of a series of proposals" following the pattern of the civil rights legislation, and to "prepare a bill containing such proposals and obtain its introduction in Congress and its enactment into law."

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ENDOWMENT FUND CHAIRMAN: Gysbertus Veldhuizen, long-time Federationist from Wisconsin.



MANUEL LABORS: Manuel Urena, chairman of the Resolution Committee, shown with Mrs. Urena.

## THE WAR AGAINST DISADVANTAGE AND DISABILITY

"The National Federation of the Blind rests on the firm philosophic foundation that disadvantaged persons possess the right and should assume the responsibility for leading the way in solving their problems caused by their disadvantaged condition, by joining together and furthering shared goals."

So began a resolution of the Louisville convention declaring the Federation's endorsement of "welfare rights organizations, the Citizens Crusade Against Poverty, and similar organizations, associations and movements of the poor." The president and other NFB officers were directed to cooperate with these organizations in all ways possible.

Asserting that "the success achieved by the organized blind movement is conclusive evidence of the wisdom and worth of the organized action approach in the field of social welfare," the resolution stated that "the concept of self-help and self-protection through concerted action and the advancement of common purposes and in the solution of common problems is gradually being recognized and accepted by the poor and disadvantaged and by government as an instrumentality for safeguarding their constitutional rights, for securing a recognition of their deprived and unequal status in our economy and society and for improving their circumstances."

The NFB's president, Jacobus tenBroek, also gave attention in his banquet speech to the theme of "new horizons and new allies" in areas of action related to the interests of the blind. Declaring that the nation today is "witnessing an upheaval among the poor and disabled which bids fair to remake the map of public institutions and rewrite the statute books of welfare," Professor tenBroek pointed in particular to "the exploding movement of the poor themselves -- galvanized by the war on poverty, inspired by the successes of civil rights. All over the land coalitions of the poor have been taking form and taking action, based in some part on the recipient categories of public welfare.

"One phase of this uprising," he said, "is the emergence of newly defined groups of the disabled and the deprived -- both national and local, general and specific. They make clear that the day is gone when we held the field of self-organization among the disabled almost alone. Today we are surrounded by kindred groups with similar purposes.

"How should we respond to their ideas and actions? One way is to stand aloof, in splendid isolation, with the haughtiness of early rivals on Plymouth Rock. At the other extreme we might merge our cause with theirs and become assimilated within a general movement of the disabled and deprived," Dr. tenBroek said.

But he went on to state: "I propose that we do neither -- rather that we assume the role of active and sympathetic collaborator, sharing our experience and giving freely of our knowledge, contributing our counsel where requested -- but maintaining our independence and adhering to our separate course."

The NFB leader advised the convention that "our posture toward others of the physically disabled and deprived should be neither that of alienation nor amalgamation but of active alliance. Where our frontiers meet and our interests coincide, let us act together for our common benefit; where our needs diverge and our problems differ, let us recognize and honor those distinctions."

As an example of what such differences may be between the blind and other groups, he cited "the vast apartment complex now being built in the city of Toledo, Ohio, expressly for the disabled and elderly, at a cost of two and a half million dollars. With all its skillful design and good intentions, this housing project appears to be as segregative and stereotyped as any old-fashioned home for the crippled and indigent -- where the inmates might be grateful, docile and unseen. Not only will the residents live, congregate and snack together, but they are also to work together: the building is linked by tunnel to the community sheltered workshop.

"That conception of a separate institutional setting may or may not reflect the needs of some disabled groups -- but it is directly contrary and profoundly repugnant to the basic philosophy of the organized blind," tenBroek said.

He concluded that "we have in common with all men that we are human; but this does not drive out our recognition of individual differences. We have in common with all disabled groups that we lack a physical capacity; but this should not prevent our recognition of the important differences in kind, in character and in consequence among the various impairments that flesh is heir to."

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## THE BLIND AND "MAXIMUM FEASIBLE PARTICIPATION"

"Title II of the Economic Opportunity Act is none other than the Kennedy Bill writ large," President tenBroek told the Louisville convention in his banquet speech. Observing that the contemporary "revolution of self-consciousness and self-expression on the part of the invisible legions of the poor" has found official sanction in the war on poverty under the Economic Opportunity Act, Professor tenBroek pointed out

that "the heart of that statute, which became law two years ago, is its establishment of community action programs under Title II, defined as programs which are 'developed, conducted and administered with the maximum feasible participation of residents of the areas and members of the groups served. '"

He recalled that the bill introduced in 1957 by Senator John F. Kennedy on behalf of the National Federation had the same purpose: "to guarantee to blind people the right to self-expression through their own organizations -- the right to organize and be consulted in the programs affecting them.

"In the Kennedy Bill we were the prophets of maximum feasible participation," tenBroek said. "We were ahead of our time then. Now that others have caught up, let us not lag behind. Let us recapture the spirit of the Kennedy Bill, and revive that cause in its essential purpose: namely, to maximize our own participation in the decisions and policies affecting our well-being."

Indicating that there is still need to assert the right to organize "wherever we find a company union of sheltered workers," the NFB leader maintained that "the greater need, and the brighter opportunity, has to do with the right to be consulted, to be admitted to the councils of policy and administration."

But he warned that the right of consultation and participation could not be satisfied by the mere appointment of an occasional blind person to a board or commission. "He may become the spokesman for other and perhaps more antagonistic interests -- or the cipher of the powers that be in the agency. He may become the token of their acceptance of the principle of maximum feasible participation; he may become in effect their hostage for the good behavior of the blind from whose ranks he may have been chosen."

More than that is required for effective enforcement of the right of self-expression and consultation, tenBroek said. "The blind are consulted in the sense of the principle for which we contend only if they are allowed to express our views when and where they count, through blind spokesmen who are their representatives, selected with their assent if not actually chosen by them, and retaining not only the support of the blind but a continuing and lively sense of accountability to them."

He linked this campaign of the blind to the larger campaign against poverty. "In and out of the poverty programs the poor are organizing, congregating, demonstrating all across the land. They are taking charge of their affairs, changing the landscape of their communities, shifting the power balance of their city councils. They are demanding to be heard

and consulted -- not in terms of tokenism but in terms of 'maximum participation.' "

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## INTERNATIONAL FEDERATION AND COOPERATION

Among the ends and means developed in recent years by the National Federation, which were reviewed and reassessed at the Louisville convention, is the goal of understanding and cooperation among the blind people of the world through the means of international organization.

"The dream that we have dared to dream," said President Jacobus tenBroek at the convention banquet, " -- a dream of blind people free and united, self-expressive and self-sufficient -- is a dream that knows no geographical boundaries. Just as we are committed to carry the message of federationism to the towns and hamlets of America, so should we carry it to the blind in other lands as well. "

Professor tenBroek recalled that the first step toward creation of a world organization of the blind themselves was taken at Detroit in 1962 -- followed by implementing moves at Phoenix two years later. In New York, a few weeks later, the International Federation of the Blind was born, with Jacobus tenBroek as its first president.

"Since then, the first working steps have been taken, more organizations of the blind in additional nations have become affiliated, and both the high prospects and the huge difficulties of this grand design have daily become more apparent," he said.

"Why should we do this, when there yet remains so much to be done here at home? . . . It is not that we owe it to others; we owe it rather to ourselves. Our commitment to the world is not so much an obligation as an opportunity.

"Why should we do this? We should and must do it because we are human beings and we are tied to blind people everywhere by indis severable bonds of humanity. We must do it because we have the strength, the experience, the knowledge, and the opportunity. We must do it because of our common disability, our common life experience, however varied the society, our common burden of the misunderstanding of others, our common suffering from an irrational discrimination that is universal," Dr. tenBroek declared.



"Finally," he continued, "we must do it not only for the good of our souls but for the good of the NFB. Shocking as it is to many Americans, we can learn something from our colleagues overseas. We don't know all there is to know about organization of the blind, about possible and desirable projects and programs, about the ways of the blind in society. In some respects, some organizations of the blind abroad have made greater progress than we. It behooves us to tap their experience, to share their wisdom, to savor their triumphs, and to draw upon their sources of strength."

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## AGENCIES FOR AND AGAINST THE BLIND

"Today in this country there are agencies which choose to work not for the blind but with them -- as collaborators, colleagues and co-equals . . . . There are agencies that affect towards us a posture of indifference and a mask of neutrality. There are agencies . . . which regard it as their special mission to fight the blind at every turn and with every weapon. There are agencies such as a number of sheltered shops which believe it is their function to control, suppress and sweat the blind."

In the climactic paragraphs of his banquet speech to the Louisville convention, President tenBroek spelled out in emphatic terms the distinction between "agencies for the blind and agencies against the blind." After summarizing the various roles assumed by the agencies both public and private serving blind persons, Dr. tenBroek declared:

"Most agencies taken as a lot resist the principle of maximum feasible participation by the blind themselves in their decision-making process and administration. We have had a striking example of this recently in the World Council for the Welfare of the Blind which bitterly fought all attempts to gain for organizations of the blind the representation which is their due.

"Now comes COMSTAC, the latest, greatest and most ominous of all agency efforts to dominate the field to the exclusion of the organized blind. The title in full is Commission on Standards and Accreditation of Services for the blind. COMSTAC's 22 autonomous members -- for so they describe themselves -- are self-appointed; its tasks are self-assigned; its authority is self-arrogated; its special knowledge is self-proclaimed; its actions are self-serving. The standards it presumes to set for others are misconceived, misdirected, and miserable. Its outlook is paternalistic and condescending. Its interest in the

content of program is incidental if not accidental."

President tenBroek emphasized that his criticism was not directed at the principle of seeking an improvement of services to the blind. "We would and do join in every legitimate effort to improve the qualifications of workers for the blind -- that is, to insure that they become more wise, more perceptive, more humane, and more imbued with sympathetic understanding. We would and do join in every reasonable effort to improve programs for the blind -- that is, to see to it that they liberate our people from self-imposed and socially imposed restrictions, to restore them to normal lives and normal livelihoods.

"But these are not the goals of COMSTAC -- those 22 autonomous men who would destroy the autonomy of others," he said. "Their highest hope -- may it be a forlorn one -- is to create a profession out of irrelevant and immaterial qualifications, and to devise programs for human beings out of the whole cloth of myths and stereotypes and the stuffing of physical plant and paraphernalis."

The NFB president concluded his remarks with the observation that "For all its bright and shiny newness, COMSTAC in reality is obsolete. Its philosophy of goods and services derives from an earlier age in which the recipients at the end of the line were simply human objects to whom things were done. Those were the good old days, before the revolution in welfare. But the revolution has come -- and has brought with it recognition of the recipient not as a passive object of professional manipulation but as a responsible participant in the making of decisions that affect his life and the administering of programs that bear upon his welfare. Of all this COMSTAC is unaware -- and uninterested."

Consistent with this line of analysis and criticism, the convention delegates at Louisville voted unanimous approval of a resolution which "deplores and condemns the standards adopted by COMSTAC for accreditation of agencies for the blind."

Asserting that the work of COMSTAC had been conceived and carried out "without even the slightest semblance of consultation with representatives of organizations of the blind, thereby excluding the blind themselves from participating in basic decisions which were the very foundations of the commission," the resolution concluded with a "call upon COMSTAC to provide the organized blind with an equal voice in the Accreditation Council . . . to make it possible for the blind to be adequately represented in decisions that profoundly affect their lives."







NEWEL PERRY AWARD: Russ Kletzing, outgoing NFB president, shown receiving the Federation's Newel Perry Award from President Jacobus tenBroek, while convention master of ceremonies John Taylor looks on.

## RUSS KLETZING HONORED BY NEWEL PERRY AWARD

"Under his presidency, we have regained unity, vigor, and renewed dedication. Because of him we are stronger as a movement and better as men."

With these words the Federation's leader, Dr. Jacobus tenBroek, bestowed the Newel Perry Award upon its chief executive of the past four years, Russell Kletzing, in a ceremony highlighting the convention banquet on the evening of July 7.

Kletzing was described in the speech of presentation as "the active agent of rehabilitation and reunion" who in 1962 "took arms against a sea of troubles, internal as well as external."

Dr. tenBroek went on to recall his acquaintance of more than 20 years with the Federation's outgoing president. "I first met Russ in the years of World War II when I was a lowly instructor and he was a high-minded student at the University of California at Berkeley," he said.

Pointing to Kletzing's rapid rise in the California Department of Water Resources -- "where he has won several achievement awards and a rapid succession of promotions leading to his present eminence as Assistant Chief Counsel" -- Dr. tenBroek observed that his professional advance "has been more than matched by his rise in the leadership ranks of the organized blind movement. In 1959 he became president of the California Council of the Blind and held that position until the Federation's national convention chose him for the presidency in 1962 and reelected him in 1964."

Prior to presenting the Newel Perry Award to Kletzing, Dr. tenBroek called attention to the "unique significance" of the award: "In our field, as in the military services, there are basically two kinds of citations. Most of them are simply 'good conduct' medals -- that is, rewards for cooperating with the powers that be and not rocking the boat.

"The other kind of citation -- unfortunately much more rare -- is that which is given for valor in combat. The Newel Perry Award is such a citation. It is presented not for good conduct but for outrageous behavior. It is a testimonial to the voice that cries untiringly in the wilderness -- like Jacob Freid's in the Jewish Braille Review. It is a tribute to the maverick who kicks off the custodial traces and breaks new orientation and rehabilitation ground -- like Ken Jernigan in Iowa.

"It is a celebration of the independent statesman who leads

better than he follows -- like Vance Hartke, Cecil King, Jennings Randolph, Walt Baring, and that well-remembered young man who authored the Kennedy Bill," Dr. tenBroek said.

"The Newel Perry Award is a means of expressing our appreciation to the intrepid adventurers and missionaries of federationism -- like Isabelle Grant. It is a way of thanking those quiet warriors of welfare who continue year after year to fight the good fight -- like Perry Sundquist in California and John Mungovan in Massachusetts.

"The Newel Perry Award is for those who, being unafraid to walk alone, march together with us in our forward movement -- or who run ahead on the Biblical mission of removing the mines and stumbling blocks from the path of the blind.

"The man we honor tonight," he said with reference to Kletzing, "the recipient of the Newel Perry Award for 1966, is that kind of person."

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#### COLLEGE STUDENTS FORM NFB DIVISION

Blind students representing colleges and universities throughout the nation gathered at a noon luncheon at the 1966 NFB convention in Louisville. The initial discussion at the meeting centered around a directory which has been compiled by Roger Petersen of Ithaca, New York. This directory includes names, addresses, represented universities, and major fields of study of blind students throughout the country. The meeting continued with reports of prosperous student organizations of the blind at the Universities of Iowa and California and, after a show of energy, enthusiasm, and excitement, the group unanimously applauded the motion to organize a National Federation of the Blind Division of Students. The officers elected to serve in the new organization were Roger Petersen, Cornell University, president; Ray Halverson, University of Iowa, vice president, and Judy Young, University of Iowa, secretary. At the conclusion of a profitable noon luncheon an enthusiastic group of young people dispersed in all directions, pledging staunch support to the new organization in its efforts to uphold and further the NFB philosophy.

More news about the Division of Students will appear in the MONITOR in months to come. Any blind college student in the United States or Canada who wishes more information about the organization is invited to write to Miss Judy Young, P. O. Box 465, Dunkerton, Iowa, 50626.





FLOOR SHOW: A typical scene around the floor mikes, as delegates rise to question convention speakers.



THE VIRGINIANS: Shown are the members of the Virginia delegation representing one of many state affiliates of the National Federation of the Blind.

## JOHN HURLEY SPEAKS ON "MEDICAID"

The Louisville convention was treated to a highly informed and authoritative address on medical assistance and other provisions of the new social security amendments by John J. Hurley, deputy director of the Bureau of Family Services in the Department of H.E. W.

Hurley, who was attending his second NFB convention, hailed the Federation as "among the leaders of the private voluntary agencies in developing programs for the needy . . . not only those who need financial assistance but those who need specialized assistance and social services."

The high federal official -- second in command of the bureau controlling social security matters -- journeyed from Washington especially to make known the views and objectives of his agency to the delegates at Louisville. His central theme was that "no longer can social services be equated with charity . . . but rather as public service for citizens whose rights to it are established by law."

Declaring that "it is for us in the government agencies to take up the banner" long carried by groups such as the National Federation, Hurley stressed the long-term goals of his office:

"We in the Welfare Administration envision a realignment of public social services to serve more effectively the needs of our whole society. Among other goals are social services pin-pointed on the one hand to people who consciously want and seek them . . . and on the other hand to those who are vulnerable due to physical handicaps such as blindness, and require the protections and help of a concerned society.

"We envision service centers in every neighborhood . . . where aid is on hand to help those in need. Such centers, with round-the-clock provision for emergencies, and with the range in staff and facilities to offer genuinely comprehensive rather than fragmented services, would give us a truly effective system for delivering the right service, at the right time, in the right way, to the right recipients."

He concluded with an appeal to the Federation: "As our partner we call on you to help us in achieving these goals. I am confident that we will succeed."

Speaking on the general topic, "The Implications of the Welfare Provisions of the 1965 Social Security Amendments," the administration spokesman gave particular emphasis to the new medical assistance



program. He pointed out that in the long run Title XIX will serve far more people than Medicare.

"In fact, the Medical Assistance Program, or 'Medicaid' as it is becoming known in some quarters, has been labeled one of the most significant, if not the most significant, pieces of federal legislation since the adoption of the Social Security Act more than three decades ago," Hurley said.

He indicated that the new plan, already operating in 11 states and Puerto Rico, is in effect an extension of the Kerr-Mills program authorized by Congress in 1960 and adopted by 47 states.

"The new Medical Assistance Program, when adopted by all states, can provide comprehensive, high-quality medical care for as many as 35 million medically needy people . . . about one-fifth of our population," he said.

Hurley described the program as "an unprecedented challenge to state, local and private welfare and health agencies, the medical profession, and the staff of federal agencies to expand and improve our joint efforts on behalf of all people who need medical care but cannot afford it."

Pointing to other social security developments of importance to the blind, Hurley noted that the 1965 amendments had increased slightly the disregarded income for the blind, in effect bringing "the total initial disregarded amount for the blind up to \$90 per month." He also called attention to liberalized requirements under the medical assistance program regarding residence and relatives' responsibility.

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#### CONVENTION HAILS TIM SEWARD

Tim Seward, administrative assistant to Congressman Walter Baring and a staunch friend of the National Federation, was honored by the Louisville convention with the presentation of a gold watch -- in a ceremony which Tim could not attend. Shortly before the convention he had suffered a heart attack and was confined to a Washington, D. C., hospital.

The special award ceremony, which had been arranged prior to Seward's illness, was carried out as planned by Kenneth Jernigan, NFB vice president, who delivered the speech of presentation. Noting



that the convention was honoring "a man who has already received our Newel Perry Award but whose service and dedication to our cause require further recognition," Jernigan declared that "for more than a decade Tim has shared our triumphs and failures, our hopes and dreams. He has not only been with us; he has been one of us."

Jernigan said that every blind person in the nation was the beneficiary when, in 1957, Congressman Baring first went to Washington and took Tim with him as administrative assistant:

"Which of us can ever forget those years of 1957 and '58. It was the time of the Kennedy-Baring bill and of the great struggle to give meaning to the constitutional right of the blind to organize and have their views heard. That bill was of course never officially enacted into law; but its objectives were substantially achieved. Today there is hardly an agency for the blind in the nation which would seriously attempt to prevent a blind person from joining the Federation. No small part of the credit for that achievement must go to Tim Seward."

Jernigan recalled that as the Federation "regrouped its forces in the early 1960's and moved to new heights, Tim was the same steady force he had always been. How many times during the past few months and years have we called on Tim to assist us in great tasks and small -- the introduction of a bill, support of a position, securing information, or merely the use of his car for transportation! The response has always been the same, and it has always been affirmative."

Tim was said to be planning to retire from his position with Congressman Baring and to move to Florida. But Jernigan assured the convention that the NFB "has not the slightest intention of letting Tim get out of harness."

The gold Omega wristwatch which he then presented to Seward bore the inscription, "To Tim with affection from the NFB." The speech of presentation by the Federation's first vice president concluded with the words:

"Tim Seward, soldier in the ranks, Federationist, colleague, brother in arms, this is our public expression of a debt of gratitude which can never be wholly paid."

## NFB GRANTS TO AFFILIATES

Adopted July 4, 1966  
Louisville, Kentucky  
by the  
Executive Committee  
National Federation of the Blind

After the termination of the greeting card mailings in 1961, the National Federation of the Blind passed a motion to discontinue the practice of automatically distributing money from national fund raising sources to state affiliates. The motion provided that when and if money became available, the national body might approve money grants to individual affiliates for special and specific projects upon application by the affiliate through the president of the National Federation of the Blind to the Executive Committee.

A new fund raising program is now in progress, and its results offer great promise for the future. Since there is every prospect that funds may be available for special projects of affiliates, the Executive Committee of the National Federation of the Blind now establishes guidelines for the affiliates in applying for special project grants.

For purposes of this document consideration will be given to three areas in which money may be spent by the national office and /or an affiliate, and in only one of these areas can a grant by the national office be made to an affiliate.

### AREA ONE

Certain projects may be financed wholly or partly with funds from the NFB. But to the extent that funds from the national office are used they will be spent directly from the national Federation treasury under the direction of the national president, instead of being given to the state affiliates in the form of grants. Illustrative of projects in this area are state surveys, organization work to establish new affiliates, and the bringing of NFB representatives to state or local meetings or conventions. When projects are to be financed jointly by the national Federation and the state affiliate, the method of dividing expenses will be established for each project through consultation between the president of the NFB and the local or state president.

### AREA TWO

Certain projects for which no grant can be made from the national office may be financed by the state affiliates themselves.



NFB LEADERS: Members of the Executive Board of the National Federation pose for a group portrait.



Bernard Gerchen, St. Louis businessman and longtime friend of the Federation, called by President tenBroek at the NFB Twenty-fifth Anniversary "The Wizard of St. Louis" for his uncanny skill in fund raising and other activities.

Projects in this area include (but are not limited to) state and local fund raising, social and recreational activities, direct financial or welfare assistance to blind persons, charitable contributions (such as Christmas baskets), purchase or rental of real property, and the operation of homes or permanent residences for blind persons.

### AREA THREE

The NFB may make grants to state affiliates for varied, specific, and approved projects -- assuming always that money is available for these purposes. It should be noted that the projects in this area will cover a specified time span and will have a specified purpose. Illustrative of these projects are the following: a public education campaign regarding blindness, preparation of specific brochures, production of television or radio programs (spot announcements or longer), membership recruitment, legislative activities at state and local levels, program improvement in work with the blind such as consultation with agency officials and/or advisory committees, special newsletters or bulletins or establishing them, opening new fields of employment for blind persons, seminars for local leaders, and attendance at national conventions.

It is important to realize that though grants may be made to state affiliates in Area Three, it is not to be assumed by an affiliate that it should expect to apply for a grant for all projects that it conducts in this area. The grant program by the national office is to assist those affiliates which have urgent, special needs and which do not have the money to pay for them. In other words, the grant program is to make Federationism stronger in those areas of the country where a specific project could be of help, but where the financing of that project would be difficult or impossible without the national grant. It is expected that all affiliates will continue to carry out many of these activities without the help of national grants.

Projected returns from national fund raising currently appear substantial enough to allow affiliates to apply for a grant for the purpose of sending a delegate to the national convention beginning with 1967. Such a grant can cover expenses for one delegate only. Applications requesting a grant for delegates expenses can be received by the president from January 1 through thirty (30) days following the close of the convention of the year in question. It is to be expected that only emergency applications will be received after the convention begins. If the grant is approved, expenses will be itemized on NFB expense account forms provided by the president, and these forms will be returned to him. Travel costs will be actual costs but will not exceed round trip, first class air fare, necessary cab fares, actual hotel charges at

established convention rates, plus current NFB allowance for food, tips, and incidentals. Travel expenses for other types of grants will have the same limits listed.

For all expenditures of any grant the affiliate must account to the president of the NFB on forms to be provided by him. The Executive Committee feels that the development of grants to state affiliates can substantially strengthen the programs of the NFB and make more effective the attainment of its over-all goals.

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### MAXINE PUGH KILLED IN ACCIDENT

Maxine Pugh, veteran Nebraska federationist, died on July 5 while en route to the Louisville convention of the NFB. The news of her accidental death, announced to the convention by Russ Kletzing, brought sadness to the hundreds of delegates who had known her over the years.

Her death came as the result of an accidental fall from the train, temporarily stopped at Newton, Iowa, on July 4, on the way to Louisville. Maxine and her escort were returning to their seats from the dining car, when Maxine lost her footing in the open section between cars and fell to the ground. She was taken to an Iowa City hospital where X-rays revealed that she had sustained three broken ribs on each side; she went into a coma during the evening and died at 2 a.m. the next morning.

A timeless worker for the blind in all phases of their activity, Maxine was born at Humboldt, Nebraska in 1925. She attended the Nebraska City School for the Visually Handicapped, graduating in 1947. Moving to Omaha, she was first employed at the craft shop of the Omaha Association of the Blind and later at the Nebraska Blind Products Company. She assumed the operation of a vending stand in Omaha's city hall in 1954, transferring later to a stand in the Douglas County Courthouse; at the time of her death she was operating the stand in the new Omaha post office.

Maxine was a member of the Nebraska Association of Workers for the Blind and held several offices in the Omaha Association, most recently as corresponding secretary. She was also a member of the Nebraska Council of the Blind and treasurer of the Blind Merchants Association.

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## CIVIL SERVICE OFFICIAL SPEAKS ON EMPLOYMENT

"If the blind in future are going to find more opportunities in the federal service they must come armed with the skills of shortage area jobs," according to Edward F. Rose, director of employment programs for the handicapped under the U.S. Civil Service Commission. The job specialist was a featured speaker July 7 at the National Federation's annual convention in Louisville.

As an example of new employment areas where skills are in short supply, he mentioned electronic data processing, in which six thousand new public jobs are anticipated within the next three years -- "jobs which the blind have demonstrated that they can handle." But he stressed that blind persons must be willing to attempt new and challenging areas of employment, and that rehabilitation experts "must have some vision as to the shortage area jobs that will exist in the future."

Rose specified the "six cardinal principles" of the Civil Service Commission's policy regarding employment of the handicapped: "Point 1 -- establishing the firm principle of equality of employment opportunity; point 2 -- not merely allowing such equal opportunity but insisting upon it; point 3 -- making positive efforts to encourage those who seek federal employment to compete for it; point 4 -- making certain that the handicapped not only have equality in competition but also receive equal consideration when eligible for appointment and get equal treatment after they are employed; point 5 -- requiring the employed handicapped to perform their duties with the same degree of efficiency as other employees; last but not least, point 6 -- making the federal service a showcase of progress in the gainful employment of the handicapped."

He pointed to a plan of the Commission for "one stop job shopping" to make it easier for blind and disabled persons to find suitable employment: "Rather than each agency maintaining its own examining board and registers, the Civil Service Commission will organize 64 boards in major employment areas and consolidate the registers and announcements for the agencies covered by the boards."

"The handicapped will be greatly helped by this move in that it will reduce the amount of time spent in determining where the existing jobs are," he said. "When you have taken the test and received notification of eligibility you and your counselor should turn your attention to locating an agency that has openings in this particular job category."



With respect to the barriers raised against employment of the blind by uninformed attitudes and prejudices, Rose expressed the view that a sufficient amount of effort is not being made in the area of public education: "I would suggest that blindness has been with us in an acceptable way for so long that both the public and those who work with the blind have developed a sort of complacency. The lack of concern for the blind has been buried in the feeling that all possible is being done."

But he assured the convention audience that "the Commission is not satisfied . . . and we will continue to expend our efforts to reach an eventual goal of maximum utilization of all persons who have a contribution to make."

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## PROGRESS IN TWO STATES TOWARD COMMISSIONS

Among the major new developments applauded by the delegates to the NFB's Louisville convention were the victories scored in two states -- South Carolina and Massachusetts -- toward the creation of independent state commissions for the blind.

The South Carolina episode reached full legislative success in May when Governor Robert E. McNair signed into law a bill which had been advanced single-handedly by the state's Aurora Club of the Blind under the leadership of Don Capps. (For details see THE BRAILLE MONITOR, June 1966.) The bill establishes a separate state commission to dispense all services except Aid to the Blind. Its acceptance by the legislature came after a favorable report by a special legislative committee, whose hearings were influenced by testimony from Capps and from Kenneth Jernigan, the NFB's first vice president.

The delegates especially applauded the report of Capps that the independent commission bill, urged and fought for by the Aurora Club against the determined opposition of the state welfare and rehabilitation departments and various private agencies, nevertheless won the warm endorsement of the legislators.

In Massachusetts a similar effort by the organized blind to remove the state Division of the Blind from the Department of Education and convert it into an independent commission has gained the overwhelming approval of the state House of Representatives and is now awaiting action by the Senate -- where it is expected to be passed and to gain the approval of the governor.



PANEL DISCUSSION: Bob Whitehead, Kentucky prexy, (at mike) and NFB President Jacobus tenBroek (second from left) are shown here with members of the panel on local and state organization; left to right, Don Capps, Harold Reagan, George Bonsky, and Albert Banducci. Ken Jernigan, panel moderator, is shown in picture below.





The Massachusetts struggle, reported to the convention by Manuel J. Rubin, president of the Associated Blind of Massachusetts, has been carried on with the opposition of a single private agency -- the Massachusetts Association for the Adult Blind.

Rubin noted that among the hundreds of letters and telegrams received by the committee were statements from Professor Jacobus tenBroek, Russ Kletzing and John Nagle, all representing the National Federation of the Blind.

"So impressed was the committee with the fervor of our presentation," he said, "that they called for a short consultation and voted unanimously to approve the bill and send it along to the lower house for action . . . Each chapter of our organization, from one end of the state to the other, pitched in and exerted itself to the utmost. Every single Representative and Senator was contacted, not once but many times.

"This entire experience proves to us the importance of the organized blind movement. Singly we are a voice crying in the wilderness. Together we can move mountains."

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#### FOREIGN GUESTS ADDRESS CONVENTION

The continents of Asia, Africa and Europe -- besides that of North America -- were represented at the Louisville convention in the persons of four distinguished blind visitors who addressed the delegates. The foreign guests were: Keiji Sawada of Japan; Jason Mutugi of Kenya, Africa; Heinrich Baumhof of the Federated Republic of Germany, and Lucy Senkevitz of Canada.

Sawada, a teacher in the National School for the Blind in Tokyo, brought a warm message of greetings to the convention from J. Kanari, president of the Japanese Federation of the Blind, which read in part:

"I had no interest in the General Assembly of the WCWB held in New York the year before last, but your convention is so attractive to me that I wish I could attend. I wonder why I feel so differently between the two meetings held in the same country. Considering it a little deeper, I have found two reasons. First, I myself have been blind more than 60 years. Secondly, your Federation and the Japanese Federation of the Blind are both organizations in which blind people themselves are taking the lead.

"American and Japanese blind people have many things in common. We have an intrinsic intimacy between us beyond the borders of nationality. Besides, the organization of the blind is the place where comforting mutual help and encouragement should be given." The message of the Japanese leader continued:

"We blind people have a hard time getting along in this world under social, economic and moral suppression, so it is necessary to take measures against these suppressions.

"I should like to ask you some questions. Do you have a very happy environment for blind people to live in? Do you get the same wages on the average as sighted workers? Do you enjoy a peaceful home life? If the answers are affirmative, your country is indeed a paradise. If the answers are negative, conditions in your country must be ameliorated as those in Japan must be. Whatever your answers may be, we wish to go forward with you as our comrades walking along the rough road of life."

Besides reading this statement by the president of the Japanese Federation of the Blind, Sawada related something of the condition of the blind in his country. He noted that there are about 75 schools for the blind, operated under local government, throughout Japan, plus four rehabilitation centers administered by the Ministry of Welfare. The principal occupations taught are massage and acupuncture (a form of therapy).

"About 18 years ago," Sawada said, "associations of blind persons all over Japan were united into the Japanese Federation of the Blind under the leadership of T. Iwahashi. Four years ago Mr. Kanari was named president of the Federation."

Sawada presented a series of brief vignettes of the lives of a number of eminent blind Japanese -- among them scholars, noblemen and musicians -- who he said provided inspiration and example for all blind persons in his country.

Jason Mutugi, founder and first president of the Kenya Union of the Blind -- reportedly the first national organization of the blind to be formed in Africa -- also addressed his talk largely to the problems and prospects of self-organization and improvement among the blind of his region.

GERMAN DIPLOMAT:  
Dr. Heinrich Baumhof,  
Third Secretary of the  
German Embassy, was  
one of many distinguished  
foreign visitors to the  
convention.



GUESTS FROM JAPAN: Mr. and Mrs. Keiji Sawada,  
representing the Japanese Federation of the Blind.





He said that there are now only five schools in Kenya for blind children and one training institute for blind adults. The majority of blind trainees who work at all were said to be engaged in teaching, farming, factory jobs and switchboard operation. But only about 200 blind people out of a total of nearly 70,000 are employed, he said, as a result both of inadequate training facilities and of ancient beliefs concerning the helplessness of those who are blind.

Mutugi recounted his growing determination as a youth to bring about the unity of Kenya's blind people, which culminated in June, 1959, when the inaugural meeting was held of "a blind association organized by the blind for the blind."

Following that event the principal of the school in which he was teaching summoned Mutugi and threatened to fire him unless he agreed to cease making speeches and organizing the blind. "But that," said Mutugi, "did not stop me -- and eventually our national organization was recognized and accepted."

The young Kenya leader, who has been a graduate student at York University in Toronto, Canada, for the past three years, expects to return to his country in another two years to assume responsibility for directing Kenya's programs for the blind.

Heinrich Baumhof, 37-year-old Third Secretary of the German Embassy in the U.S., proved to be one of the most popular and impressive of the convention's many guest speakers. Blinded by a grenade explosion just after the war in 1945, while collecting ammunition stores for the Allied Occupation forces, Baumhof spent four years in the famous Marburg school for the blind under Dr. Carl Strehl. From there he went to the University of Heidelberg, where he received his degree with a dissertation on the poet Goethe.

Entering the diplomatic service six years ago, Baumhof moved into the cultural department where he soon assumed supervision of German hospitals and charitable organizations and became administrator of Germany's emergency relief fund. Wishing to see the world, Baumhof requested a diplomatic assignment abroad and in January of this year was sent to Washington, D.C., where he is third secretary in charge of cultural affairs.

A fourth foreign visitor to address the convention was Lucy Senkevitz, who traveled from Toronto to Louisville to bring the greetings of many of Canada's blind people -- whom she said were at

present inadequately represented by their membership organizations and ineptly served by their agencies.

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## EXECUTIVE COMMITTEE MEETS IN OPEN SESSIONS

The 15-man Executive Committee of the National Federation, made up of elective officers and members-at-large, held two productive open meetings during the course of the Louisville convention. Russell Kletzing presided at the meeting on July 4, and Jacobus tenBroek, newly elected president, chaired the second session on July 6.

Principal topics considered at the meetings had to do with the finances of the organization: income, support of NFB administration and programs, and available funds for state affiliates. At the July 4 meeting the Executive Committee unanimously voted approval to a report prepared by Kenneth Jernigan, First Vice President, establishing a program for disbursements to state affiliates as soon as funds become available. (The report is reprinted elsewhere in this issue of the BRAILLE MONITOR.)

On July 6 the Executive Committee met in full session with its fund-raiser and close friend of 13 years' standing, Bernard Gerchen. A full review was given to the Federation's project for raising funds by the sale of neckties through the mail. Bernie Gerchen, who is the Federation's agent in the conduct of this enterprise, made a detailed report to the open meeting and was warmly received by the delegates.

The discussion which followed was lively and searching, reviewing the literature that accompanies the neckties, the place and method of recapture -- that is, the possibility of using a bank as against a Federation-supervised office -- methods of procuring mailing lists, and finally the number of units to be ordered for the fall mailing.

Questions were raised as to whether the Federation should supplement its necktie mailing with greeting-card mailings, and otherwise diversify its fund-raising campaign. The discussion concluded with a unanimous expression of approval of the present program, as being sound in concept and administration and as consistent with NFB philosophy that we pay our way and control our own operations.

Bernie Berchen was warmly congratulated and commended on the basis not only of his effective business cooperation with the Federation but also his understanding of our movement and our objectives.



KLETZING PRESIDES: Russ Kletzing shown at the helm during an Executive Committee meeting.



OPEN SESSION: A convention meeting of the NFB's Executive Committee draws wide attendance.



Other items considered at the July 4 meeting of the Executive Committee were: the establishment of a retirement system for full-time employees of the Federation of one year's service; the reappointment of Dr. Jacob Freid and Dr. Isabelle Grant to the NFB's board of directors; and a sense motion in which the audience participated that the convention roll call should be taken at an evening session prior to the regular Tuesday business sessions.

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### SHELTERED SHOP STRIKE IN CANADA

From the Canada issue of Time magazine, June 10, 1966, under an article headed "UNIONS" in the Canada section, p. 16:

"In Toronto, public sympathy was roused for both sides in a strike by 175 broom-and-basket makers at the Canadian National Institute for the Blind. Paid an average \$55-\$60 a week, the blind non-unionized workers and their Seeing Eye dogs set up picket lines outside the CNIB's headquarters to back their demand for more money. Last week, with an assist from a provincial conciliation officer, they settled for an immediate 15-cents-an-hour raise, with another 5 cents next year, which will give them an average \$63-\$68 a week."

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### BLIND MAN GIVES "HEARING" TO ROBBERS

(From the New York Daily News, Thursday, July 28, 1966)

Two men's voices echoed in Robert Murphy's ears yesterday as he stood before the bench in Criminal Court. "They sound like the ones," he said quietly. Murphy's world is a dark one, filled only with the music he plays, the sounds of the city and the tap-tap of his cane.

But the world become suddenly darker for the 24-year-old blind musician early on July 5 when two men beat him unmercifully with his cane, then robbed him.

Murphy stood silently yesterday, his face and neck still swollen and bruised and his chest bandaged, as he heard two men being arraigned on felonious assault and robbery charges.

The defendants -- Sammy Young, 32, of 64 E. 86th St., and Charles Booth, 41, of 225 E. 89th St. -- glanced at each other and

winned as Murphy said he recognized their voices.

Detectives of the E. 67th St. station gave this account of the crime:

Murphy, a pop music trumpet player and composer, stepped out of a taxi at Lexington Ave. and 58th St. on the morning of the beating.

He started making his way to an apartment at 713 Madison Ave. where he stays when he's away from his home at 77 Gilman St., Hartford, Conn.

Two men approached him and asked "Can we help you anywhere?"

Murphy thanked them, gave him his address and trustingly let them guide him home.

But when he was inside the apartment, his "friends" suddenly beat him although he tried to ward off their blows.

Then they took \$70 from his pocket, \$1,500 in appliances from the apartment and left him tied to a sofa.

Detectives Robert Keane, Robert Lehmann and John Justy had only skimpy descriptions of the stolen items to work with -- but they also had the blind victim's delicate hearing.

They combed the area with Murphy. As they asked questions about the stolen items he listened to the voices in the darkness.

Yesterday morning the path finally led to Young and Booth, who were arrested after a witness reported seeing them with Murphy the night of the attack.

They were held in \$5,000 bail each for hearings Aug. 12 on assault and robbery charges.

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#### ACT OF KINDNESS BRINGS MIXED RESPONSE

(From Kansas City, Missouri, newspaper, July 17, 1966)

An act of kindness brought mixed reactions from rush-hour drivers about 6 o'clock one night last week at Thirty-ninth Street and the Paseo.

J. E. Biles, 34, of 6019 Buena Vista Street, Fairway, a bus driver for Kansas City Transit, Inc., stopped his crowded, southbound, Armour-Paseo bus and held up traffic about three minutes to help a blind Negro broom salesman cross the street to another bus stop.

Vernon A. Kennedy, 47, of 4017 Virginia Avenue, saw the episode from his parked car near the corner. He said the blind man stepped off the bus near the intersection, and seemed confused about where he was.

Biles, sensing the blind man's bewilderment, climbed off the bus, took the man by the arm and lead him across the street against oncoming traffic, Kennedy said.

"It was hot, and tempers were short," Kennedy said. People honked their car horns, and two young men yelled to Biles, "Get that bus moving!"

When Biles and the blind man reached the stop for the eastbound Thirty-ninth Street bus, Biles placed the man's hand on the sign, and hurried back to his bus, Kennedy said. "When I got back on the bus, I could tell some people were kind of peeved and in a hurry to go," Biles said.

It took Biles about 3 minutes to help the man and return, Biles and Kennedy estimated.

"I knew a lot of people were mad at me for doing it," Biles said, "but I just couldn't see letting that man cross the street unaided."

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## GUIDE DOG CAN'T ENTER BRITAIN

(From the San Francisco Chronicle)

London -- Blind jazz pianist George Shearing arrived in Britain for a vacation and sharply attacked the quarantine laws which prevented him bringing his seeing-eye dog.

"If I had brought him it would have meant six months in quarantine -- all because of this stupid, out of date, archaic rabies rule," he said.

Shearing, who was born in London, is now an American citizen. He was accompanied by his English wife, Trixie. They bought the guide



dog, Leland, a golden retriever, when they were in England four years ago.

"He is my hands and feet and has to think for me," said Shearing. "We are seldom separated. The trouble is that when a guide dog is separated for any length of time from his master he forgets what he has been taught. I have sent Leland to a dog school while I am in England."

Mrs. Shearing said she made a special request to the Ministry of Agriculture for permission to bring the dog into Britain.

"But my pleadings fell on deaf ears," she said. "I feel they should waive this rule for blind people."

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#### SWEEPING CHANGES FOR ASHTABULA WORKSHOP

New developments in the struggle of the Ashtabula, Ohio, blind for reforms in the local Goodwill sheltered workshop -- including the ouster of the two top workshop officials and grievance procedures for employees -- have brought expressions of approval from George W. Ferguson, Jr., president of the Ashtabula County Adult Physically Handicapped Club.

Referring to a study team report on the workshop released in late July, Ferguson said in a letter to NFB President Jacobus tenBroek that "a grand job was done here, but our task is only in the beginning stages. Certainly the Citizens Committee have worked hard on this thankless job, and I am sure they will work just as hard to make our Ashtabula Goodwill shop very successful in the future." (For details on earlier happenings, see "Disabled Accuse Goodwill Workshop," THE BRAILLE MONITOR, July, 1966.)

In a major front-page article on the workshop issue, the Ashtabula STAR-BEACON on July 27 summarized the new developments:

"Goodwill Industries trustees Tuesday night accepted its executive director's offer to resign effective Aug. 31. The executive director, Howard Dunlavy, made the offer two weeks ago.

"In other action Tuesday night, the Goodwill trustees received a study team report and will put major recommendations into effect immediately.

" -- A 'management review committee' -- including a member of the survey team -- will be organized to report regularly to Goodwill trustees on operations.

" -- Goodwill trustees will review and implement other recommendations, particularly establishment of grievance procedures for handicapped employees to follow.

"In still other action:

" -- The directorship will be offered as of Sept. 1 to Bruce A. Archambault, assistant director of Cleveland Goodwill Industries.

" -- Operations director Robert Gillespie is leaving for other employment and will be replaced after Sept. 1.

"The long awaited report was given Tuesday night to Goodwill trustees by the citizens' committee which heard many hours of testimony.

"The committee was set up after complaints and accusations of Goodwill operations by a former employee who has never been identified."

The Louisville convention of the National Federation of the Blind on July 5 passed a resolution pledging the organization's support and commendation to "the members of the Ashtabula County Adult Physically Handicapped Club of Ohio for their valiant struggle against great and powerful forces to secure fair and decent working conditions for the handicapped employees of the Ashtabula Goodwill Industries sheltered workshop. To this determined and courageous group of people, we the organized blind, pledge our support and reaffirm our determination to work for congressionally established minimum wage rates and collective bargaining rights in sheltered workshops."

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#### ALL-INDIA CONVENTION OF INSTRUCTORS OF BLIND

More than 250 delegates from all over India -- plus observers from Ceylon, Africa and the U.S.A. -- gathered in New Delhi, May 28-31 for the first All-India Convention of Instructors of the Blind. The meeting was inaugurated by the Vice President of India, Dr. Zakir Hussain, and presided over by Asoka Mehta, Union Minister of Planning and Social Welfare.

Reporting on the convention to THE BRAILLE MONITOR,

G. P. Sharma, General Secretary of the National Association of Instructors of the Blind, noted that various senators and political and social leaders were among the participants and that "we were lucky to have wide coverage in the press, radio and television."

The central theme of the convention was "The Blind Child and His Education," with specific emphasis on subordinate topics dealing with (1) the instructor of the blind; (2) curriculum in the schools for the blind; (3) making the blind child socially acceptable, and (4) difficulties facing the schools for the blind.

Among those who submitted messages of greeting to the convention was Professor Jacobus tenBroek, president of the U.S. National Federation of the Blind and of the International Federation of the Blind.

In his letter, Sharma stated that the India Association of Instructors of the Blind "plans to develop further its existing activities. We hope to establish a good professional library which can be used by the instructors. We are also planning to start a professional magazine. Some of the other activities we plan to organize are workshops, in-service training and refresher courses, establishing Association branches in different parts of the country, and other related activities."

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#### CANADIAN FEDERATION OF BLIND CONVENES

While the National Federation of the Blind was convening in Louisville, the Canadian Federation of the Blind was holding its own national convention in Prince Albert, Saskatchewan.

Mrs. Marion Hilliar of Vancouver was elected to the Canadian Federation's presidency, succeeding C. A. Pettapiece of Prince Albert, who is retiring at age 85. Others taking office for the coming year are: Colin Steuart and Frank Leftley, both of Toronto, first and second vice presidents; Mrs. Bertha Bonsey, Vancouver, national secretary, and Stuart Hannah, Prince Albert, national treasurer.

Among the resolutions passed by the convention was a demand for abolishment of the means test in determining the government allowance of aid to the blind. A related resolution stated that as long as the means test remains in effect a single blind recipient should receive an income exemption of \$3,000 and a married couple \$5,000 per year.

The convention delegates also called for establishment of a

school for the blind in the Saskatchewan province, and urged the government to set up an investigative Royal Commission "with far-reaching and exhaustive terms of reference" to look into the administration of welfare services to the blind.

Delegates to the national convention came from all sections of the country including Montreal, Toronto, Moose Jaw, Saskatoon, Nipawin, Calgary, Vancouver, and Prince Albert.

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## GERMANY'S CARL STREHL FETED AT EIGHTY

By Dr. Horst Geissler

[Editor's note: Dr. Carl Strehl, famed German educator and leader of the blind, was honored on his 80th birthday in July by a reception described in the following article by Dr. Geissler, director of the German College for the Blind (Blindenstudienanstalt) in Marburg. Dr. Strehl was for half a century the director and headmaster of the College for the Blind, which is the nation's major school and rehabilitation center for the blind. He is also the founder and later president of the Association of the Intellectual Blind of Germany, vice president (since 1951) of the World Council for the Welfare of the Blind, managing director of the Talking Book Library for the Blind, and honorary professor of Marburg University. Born in 1886, Strehl lost his sight at 23 through an accident in New York, and studied at the Universities of Lausanne and Marburg, receiving a Ph.D. in 1921 from Marburg. In 1931 he was appointed to a professorship on subjects of blindness in the Faculty of Medicine of Marburg University.]

On the occasion of the 80th birthday of Prof. Dr. Carl Strehl, the Deutsche Blindenstudienanstalt arranged a reception in their hostel for students in Marburg/Lahn on the 12th of July, 1966. More than 50 persons, well renowned for the most part, accepted the invitation. Hundreds of congratulations -- letters and telegrams -- from all parts of the world reached Dr. Strehl.

The Bundespräsident Heinrich Lübke sent a long, warm-hearted telegram. Also the Federal Minister of the Interior Paul Lücke, the Prime Minister of the 2nd Hesse Georg August Zinn and a great number of the Ministers of the Länder sent their best wishes by telegrams. The Lord Mayor of Marburg attended personally and awarded Dr. Strehl with

the medal of honour of the city of Marburg, a rarely presented decoration.

At the reception, speeches were made by Dr. Gottwald, representing the civilian blind, by Dr. Ludwig for the war-blind. Dr. Mittelsten Scheid addressed Dr. Strehl in the name of the Association of the Intellectual Blind of Germany. The representatives of present and former students of the Deutsche Blindenstudienanstalt expressed their deepest thankfulness to him, as it was Dr. Strehl who showed them the way to a higher education and to higher professions by founding this great institute, the importance of which goes beyond the German borders.

As an institute of the German organization of the Blind, this work of Dr. Strehl set an example for the whole world. It must be added that Dr. Strehl has very great merits in the field of international cooperation among the blind, which is understood as a matter of course to-day and became so productive for us.

Therefore also the President of the World Council for the Welfare of the Blind Eric Boulter; the Chairman of the European Committee of this organization, Mr. Seierup; the President of the International Federation of the Blind, Dr. tenBroek, and the Chairman of the International Conference of Educators of Blind Youth, Mr. Waterhouse, honoured Dr. Strehl on his 80th anniversary.

It is easy to understand, and appropriate, that newspapers and broadcasting stations in Germany took occasion to call attention to the high merits of Dr. Strehl on his birthday.

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#### AGENCY RUNAROUND IN INDIA

"This is nothing but another COMSTAC shooting in India." With this invidious characterization a blind resident of Madras State in India has written to THE BRAILLE MONITOR concerning the negative response of the national Committee on Petitions to demands he has made upon Parliament "to redress the grievances of the blind."

The petitioner is Shri A. N. Venkatasubramanian, an active and independent organizer and author of a "Magna Carta" for the blind of India. Among his recent actions is a campaign to gain adoption of White Cane Safety Day in his nation.

Responding to what Venkatasubramanian terms his "bombardment of Parliament," the government's Committee on Petitions stated in part:

"Experience here and elsewhere has shown that it was not always possible for the blind to be placed in open employment. . . Sheltered workshops offered a possible solution to the problem of unemployment among the blind. What was important, however, was to ensure congenial working conditions."

Without making direct reference to any of the criticisms and proposals submitted by Venkatasubramanian, the committee reply defended the existing state-administered workshop for the blind at Dehra Dun and added that "special employment exchanges had been set up in the country to place trained physically handicapped persons, including the blind, in ordinary industrial and commercial establishments and public undertakings."

The official communication conceded that "it was true that training in traditional occupations like weaving and chair caning were outdated. In view of this the Department was trying to develop training facilities for the blind in engineering occupations."

An author of a "Magna Carta" for the blind asking government aid in striking down discriminatory barriers against the blind in public employ, and seeking a program for the integration of the blind into normal employment and community life would hardly regard this response of a parliamentary committee as adequate.

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#### BLIND MUSICIANS WANTED

P. O. Box 822  
Great Falls, Montana 59401

The National Federation of the Blind  
2652 Shasta Road  
Berkeley, California 94708

Dear Sirs:

Would you place an article in your publication that I would like to contact any blind people who would be interested in forming a musical group which would play classical, semi-classical, etc. ? I would like to



have the group formed in two or three years. I am looking for the highest type individuals who would be free to travel.

Janet Kessner, Dorothy Dunn (both blind and listed in your college directory) played a show with me May 16 in Wallace, Idaho, for the National School assemblies, and we had an offer of \$400 per week, but Dorothy wants to study voice. They do their booking two years in advance, and it takes four years to complete the circuit.

I am especially interested in accordionists and prefer that they have absolute pitch, but it is not necessary.

I have been teaching 21 years, and working with the blind has been one of the most satisfying rewards of my career. If you have any more questions of any kind, please feel free to ask.

Yours truly,

[ signed ]

Herbert D. Sutherland

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#### ISRAELI BLIND AIDED BY GERMAN GROUPS

[ Editor's note: The following account was submitted to THE BRAILLE MONITOR by Dr. Horst Geissler, who is vice president of the German Association of the Blind as well as director of the German College for the Blind in Marburg. ]

On April 25, 1966, the 18th anniversary of the foundation of the State of Israel, the leaders of the German Selfhelp Association of the Blind in conjunction with the German Jewish groups, established an organization whose goal it is to give assistance to the blind in Israel. This organization was born out of the spirit of genuine brotherhood.

The initiative to give help to the blind in Israel was taken by Dr. Ernest Blum of Cologne on December 5, 1965. It was felt that the young State of Israel, with the burden of establishing herself in hostile surroundings, is not able to give sufficient help to her blind citizens to assure their proper place in society and business life. Dr. Blum gave proof of the sincerity of his intentions by contributing to this cause the Leo Baeck prize which he had received previously from the Central Committee of the Jews in Germany.

Other contributions followed, and soon it became necessary to form a special organization for this purpose, which as the representative



of the volunteers of the German Republic would be in close collaboration with the German offices and the related offices in Israel. This again proved the strength of the Selfhelp Association of the Blind, which is evidenced in their large organizations.

Headquarters of Aid for the Blind in Israel are located at Marburg. Dr. Blum was elected as president at the first meeting of the organization. Dr. Blum has a leading position in the Ministry of Labor at Saarbruecken. Dr. Geissler, director of the German College for the Blind (Blindenstudienanstalt) in Marburg, was elected as vice president and executive officer. Dr. Van Dam, secretary general of the Council of the Jews in Germany, was elected co-counsellor in an advisory capacity, as were Heinz Keil, president of the Blindenverband Rheinland/North, and Dr. Kirchner, president of the Landesverband Baden-Wuerttemberg of the Federation of the War Blind of Germany.

The new organization plans soon to get in touch with the related offices in France, the Netherlands and Switzerland in order to coordinate efforts to assist the more than 7,000 blind persons in Israel, which has a total population of 2,300,000. Various contacts between German and Israeli organizations to give help to the blind were already existing, but these efforts to give help will now be much more effective through their centralization. It is hoped that this action will contribute to a deeper mutual understanding between Germans and Israelis.

It is understood that this plan of assistance to the blind in Israel will have no influence on the aid which Germany is giving to other countries to help their blind citizens.

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#### LABOR-SHELTERED WORKSHOP CONFERENCE

[Editor's Note: The following summary of the joint organized labor-vocational rehabilitation conference on sheltered shops is taken from the July 1966 issue of the Labor Rehabilitation Report. Significantly there is no mention of any organized group of the blind or otherwise disabled being invited or of any workers in the sheltered shops.]

Forty-five leaders of organized labor, sheltered workshops and other rehabilitation organizations met June 8-9 at the University of Chicago to develop practical guidelines and recommendations to facilitate joint efforts of unions and sheltered workshops to serve the

handicapped. Subjects included in the discussion were wages, working conditions, subcontracting policies, collective bargaining, rehabilitation planning, union representation on sheltered workshop boards and union assistance in expanding and facilitating sheltered workshop programs. NIRHS will shortly make available a brief report of the Conference recommendations. Several state and regional meetings are now being planned in order to implement conference recommendations.

Among the Conference discussion leaders were Henry Redkey, Chief, Facilities Section, VRA; Julius Rothman, AFL-CIO Community Services Activities; Antonio C. Suazo, Executive Director, National Association of Sheltered Workshops; Russell G. Albrecht, Executive Director, Detroit League for the Handicapped; Bernard Stern, Director, New York City Jewish Occupational Council; J. Arthur Johnson, Columbia Lighthouse for the Blind; and Alfred Slicer, Director, Illinois DVR.

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#### UNION MOVE TO BAN DISCRIMINATION

(From Labor Rehabilitation Report, July, 1966)

The Black Hawk County (Iowa) Union Council, AFL-CIO, recently adopted a resolution to be submitted for approval by delegates to the Iowa Federation AFL-CIO which meets in September. In effect, the resolution requests "all International and Local Unions to add the word 'Handicapped' to the non-discriminatory clause of their contracts at the earliest opportunity." At least two union contracts containing similar language have already been negotiated in Iowa.

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#### NEW FEDERAL PUBLIC ASSISTANCE REGULATIONS

(From Welfare Law Bulletin, June, 1966)

The Bureau of Family Services of the federal Welfare Administration has recently issued three policy statements establishing new requirements for states in determining needs and resources in the granting of assistance under Titles I, IV, X, XIV, and XVI of the Social Security Act.

According to Handbook Transmittal No. 76 released by Fred H.

Steininger, Director of the Bureau of Family Services, on February 23, 1966, all states will be required to adopt by July 1, 1966, one of the three simplified methods for determining need described in a publication issued in 1964 entitled Simplified Methods for Determining Need. Basic to each of these simplified methods is the concept of an average per capita monthly cost-of-living budget (exclusive of rent) and the elimination of items of special need except as they relate to actual unusual expenditures by the recipient. The advantages of simplified budgeting methods in clarifying for the recipient the basis of his entitlements is one major objective in this new policy. It will, however, need to be watched to see that it does not result in reduction of assistance payments in the higher levels (especially for families with older children with more expensive food and other requirements) or a failure to meet special needs on an individualized basis when they do occur. The new regulations also eliminate as an item in assistance budgeting the value of home produce used by the assistance recipient or members of his household for their own consumption and the consideration of loans "made under conditions that preclude their use for meeting current living costs" as an element in assistance budgeting.

A second publication of the Bureau entitled Simplified Methods for Consideration of Income and Resources was released by the Director on January 7, 1966, with State Letter 872. It describes new policies, three of which will become mandatory on July 1, 1967. The first of these excludes from assistance consideration all minor casual earnings of children under fourteen. The other two policies relating to relatives' contributions and support payments have important implications for welfare law and are, therefore, quoted in more detail:

#### Contributions from Relatives

"In a State which holds relatives responsible for the support of applicants or recipients of assistance, the State plan must provide an income scale as a method for determining whether responsible relatives have sufficient income to warrant expectation that they can contribute to the support of applicants or recipients. Such income scale must exceed a minimum subsistence level of living, and must represent at least a minimum level of adequacy which takes account of the needs and other obligations of the relative.

"The State Plan must also provide that no request will be made for contributions to applicants or recipients of assistance from relatives whose net cash income is below such scale, unless such applicant or recipient of assistance is such individual's spouse or minor child who is living in the home with the relative. The plan must also provide that no assumption shall be made that any relative whose net cash income is below the scale is contributing to the support (or medical care) of applicants or recipients."

## Court-Ordered Support Payments

"The State plan must assure that, when support payments by absent parents have been ordered by a court, a regular amount of income is available monthly to meet the determined needs of the mother and children whether or not the support payments are received regularly, and that the agency will not delay or reduce public assistance payments on the basis of assumed support which is not actually available."

In interpreting this requirement, the following further recommendation is made:

"The method of handling court-ordered support payments is, of course, at the discretion of each court and may vary widely within a State. For example, some payments may be ordered payable directly to the mother, some to the mother through the court, and some to the mother through the welfare agency. The most economical method from the standpoint of the family and the Welfare Department is usually to have the payments made to the welfare agency, either directly by the absent parent or by the court. It is desirable that this method of payment be adopted statewide, so far as it meets approval of the courts. Where this method is used, and need is met according to the agency's standard, the agency must make regular payments to the family in an amount that is not reduced by the amount due to the family or received from the absent parent. The support payments from the absent parent will be treated as a refund of assistance paid."

A third important policy statement in this area is contained in Handbook Transmittal No. 77, issued on March 18, 1966, relating to the protection of the individual's legal and constitutional rights in the determination of eligibility. The following three requirements are to become effective July 1, 1967:

1. Policies for eligibility determination must not only conform with all legal and constitutional protections but must be such that they "will not result in practices that violate the individual's privacy or personal dignity, or harass him, or violate his constitutional rights." In further explanation the Bureau policy states:

"By way of illustration, States must especially guard against violations in such areas as entering a home by force, or without permission, or under false pretenses, making home visits outside of working hours, and particularly making such visits during sleeping hours; and searching in the home, for example, in rooms, closets, drawers, or papers, to seek clues to possible deception."

2. In the determination of initial and continuing eligibility

"applicants and recipients will be relied upon as the primary source of information about their eligibility, after an adequate interpretation of the agency's requirements." The Transmittal further specified methods for obtaining the individual's specific consent when outside contacts are still necessary to establish his legal eligibility and the way such contacts are to be made. Should he decline to give such consent he must be informed of his right to reapply at any time.

3. The regulations spell out in more detail the content and character of the written notification and explanation to be given applicants and recipients, and include the following statement:

"When assistance is denied to an applicant and when a recipient's assistance is terminated, the written notice to him must contain the reason why he has been determined to be ineligible. The written notice will provide a basis for the individual to express dissatisfaction with the agency action."

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## TEST CASE ON WELFARE AND CIVIL RIGHTS

(From Welfare Law Bulletin, February and June, 1966)

The first case to test the constitutionality of Title VI of the Civil Rights Act (conditioning federal aid on nondiscriminatory administration of program benefits) may reach the courts as a result of the present proceeding in the Department of Health, Education and Welfare with respect to Alabama's refusal to comply with the requirements of that Title, as interpreted by departmental regulations, in the administration of welfare programs under Titles I, IV, V, X and XIV of the Social Security Act. (Title VI of the Civil Rights Act also applied to every type of federal financial assistance.)

The immediate point at issue is the requirement in the presidentially approved regulation, and hence the Department's insistence, that the state undertake to assure that all services, whether by governmental or nongovernmental agencies and practitioners, to assistance recipients or children receiving child welfare services, be provided on a nonsegregated basis if federal funds are used to pay for such services. Principally involved are (1) medical and other health services provided by hospitals, nursing homes, clinics, private physicians, and other health practitioners and (2) institutional, day care, and other child welfare services. The Alabama State Department of Pensions and



Security and its governing body, the Alabama State Board of Pensions and Security, maintain that they are unable to give such assurances with respect to services and facilities over which they do not have direct administrative authority.

All other states operating federally aided programs under the Social Security Act have submitted Statements of Compliance without reservations relating to this requirement of the regulations. The issue is obviously one of basic importance not only with respect to all federally aided state health and welfare programs but also with respect to the so-called "Medicare" programs authorized by Title XVIII of the 1965 Social Security Act Amendments, scheduled to become operative in July 1966.

The Alabama Department is also the only state welfare department which has declined to give assurances that county welfare offices administering the federally aided programs under its supervision would maintain nonsegregated facilities and would assign caseworkers on a nonsegregated basis.

In accordance with the required procedures under Title VI of the Civil Rights Act, the federal Commissioner of Welfare notified the Alabama Department on August 17, 1965, that it had failed to comply with the requirements of the Act and that a hearing would be held unless the noncompliance was remedied. At the hearing on November 15, 1965, briefs were filed and oral arguments made to the hearing examiner (who was assigned by the Civil Service Commission since the Welfare Administration does not have its own examiners) by HEW and the state agency. Subsequently reply briefs were filed.

Under the procedures prescribed by the Act and implementing regulations, the hearing examiner submits recommended findings and a decision to the Commissioner of Welfare who, as the responsible Department official, issues the "initial" decision...In no case, however, may any withholding become effective until the Secretary's decision has been submitted to Congress, to "lie before" the standing committees of the two houses of Congress responsible for the basic legislation (in this case the House Ways and Means and the Senate Finance Committees) for thirty days....

The Alabama...brief...discusses points of substantive law. With respect to potential conflict between the purposes and requirements of Title VI of the Civil Rights Act and those of the Social Security Act, it argues: (1) that needy persons in similar circumstances in the several subdivisions of the state might be denied equal access to services if vendors of such services declined to provide them on a nonsegregated basis; (2) that eligibility determinations conditioned on a doctor's

certificate would not be equally available throughout the state if physicians in certain political subdivisions refused to issue such certificates on a nonsegregated basis; (3) that the unrestricted payment requirement of the public assistance titles would be violated if the recipient of assistance or his family were denied freedom of choice with respect to a segregated nursing home or other nongovernmental facility; and (4) that the purpose of child welfare services to "meet the needs of the child" would be denied if child-caring institutions to meet such needs were not available on a nonsegregated basis. The further argument is made that the forced placement of a Negro child in a white child-caring institution would "be tantamount to insuring an insecure child a permanent feeling of insecurity" and thus would be inconsistent with the avowed intent of the Brown decision as well as with established casework principles. Alabama also argues that the application of the requirement of desegregation to third party payment tries "to give the State agency, by the method of economic boycott, policing power that the State agency does not consider appropriate to its legal role..."

On April 6, 1966, the Hearing Examiner, Robert L. Irwin, issued his findings of fact and recommended to the Commissioner of Welfare of HEW "that she determine that Federal financial assistance under Titles I, IV, V (Part 3), X, and XIV of the Social Security Act shall not be extended to the State of Alabama for any period on and after 30 days following the filing of the order and the written report with the Committee on Ways and Means of the United States House of Representatives and the Committee on Finance of the United States Senate as provided in Section 602 of the Civil Rights Act of 1964, until such time as Respondents correct their noncompliance with the Civil Rights Act of 1964 and the Regulations issued pursuant thereto and satisfy the Commissioner of Welfare that they will comply fully with such Regulations."

Under the procedures of the Civil Rights Act, if no exceptions and responses to the recommendations of the Hearing Examiner are filed within 45 days of their issuance, the Commissioner of Welfare may proceed to make her decision.

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## MARYLAND AFFILIATE CHARTERS TWO CHAPTERS

By Albert Balducci

At a dinner meeting at the Francis Scott Key restaurant on July 23, 1966, two Chapter Charters were presented to local chapters.



In the absence of Mr. John Nagle, who was ill, the meeting was chaired by Mr. Albert Balducci, President of the Free Stated Federation. The invocation was given by Mr. E. R. Snyder, husband of the State Secretary.

Several letters were read, one from Governor Tawes, assuring the Federation that he had requested money to be put into the 1967 budget so that Maryland might have the rehabilitation so badly needed.

The presentation of the charters was made by Mr. Thomas D'Alesandro, President of the City Council and Acting Mayor while the Mayor was abroad. Mr. D'Alesandro said that although he was a novice at this thing, he would pledge his support to the best of his ability to the program for the blind. The charters were read, and Mr. Ned Graham, Jr., President, accepted the charter for the Greater Baltimore Chapter, while Mr. Albert Balducci, President, accepted the Charter for the Maryland Council of the Blind, Inc. In Mr. D'Alesandro's closing remarks he stated that we now live in a new era, one of progress and advancement, so now is the time to promote the welfare of the blind. He urged both chapters to "take their charters and look to the future."

Attorney Gilbert Rosenthal was also present as a member at large of the Federation, and he also offered his services to all the blind in Maryland. He urged that the blind feel free to call on him at any time. At the present time Mr. Rosenthal is the advising attorney for the Maryland Council.

A complete convention report was given to the assembly, Mr. William Appel, Maryland's Official Delegate presiding. Each delegate contributed his or her part to the discussion.

Announcement was made that as of August 1, 1966 the new State Office would be open to the public at 234 Park Avenue. An invitation was extended to all present to visit the office frequently, and for the members to feel free to bring their problems there for discussion and perhaps solution.

Mr. Graham, Legislative Chairman for the Free State Federation has taken Mr. D'Alesandro III, at his word, and has made an appointment with him to go over details for the betterment of welfare for the blind in Baltimore City.

We sincerely hope that the Free State Federation of the Blind will do as Mr. D'Alesandro has suggested: "Take your charters and look to the future."

# CALIFORNIA BLIND ACT TO AID ORGANIZED POOR

By Beverly Gladden

(From The Council Bulletin, July, 1966)

At its May convention the California Council of the Blind passed two resolutions which represent a giant step toward a new and exciting future for the organized blind of California. One of these resolutions declares the Council's intention to support the poor of California in their efforts to form a statewide Federation and allocates a small amount of money to be used for this purpose. The other resolution affirms the Council's intention to affiliate with the new Federation of the Poor in such a way as to retain its separate identity as the California Council of the Blind. These resolutions received overwhelming support from the convention at large, for they are a natural expression of Council philosophy. Indeed, the above resolutions and the new trend which they represent may be the answer of the organized blind to COMSTAC.

It must certainly be clear to those who have followed Dr. Jacobus tenBroek's careful and revealing analyses of this accreditations committee that no amount of Council propaganda could have unveiled more completely the fallacies and dangers inherent in agency philosophy than this committee has done by its own published reports. These true confessions of agencies for the blind embodied in COMSTAC are not new to the organized blind; the only new thing about them is that they now seek to gain status by gathering together in an impressive report replete with jargon geared to an appeal for federal money with which to perpetuate the helplessness and segregation of the blind man as they see him from the rest of his society. The above resolutions declare the Council's intention to strive for precisely the opposite effect. In the view of the blind, the agencies for the blind have come to represent an "establishment"... whose policies have been at variance with those of the organized blind since their inception. Agencies for the blind have a vested interest in fostering the image of the blind as dependent and helpless, and so they are content with the mere acceptance of the blind by a gratuitous society. The organized blind are satisfied with nothing less than the total integration of the blind man and his society...

Now, what has the Council done about these resolutions? First, a bit of background on the Federation of the Poor. The first convention of the poor was held in February in Oakland. Poor persons from all over the state attended with money provided by private foundations...A steering committee was appointed which later met in Fresno and from these two meetings, it became apparent that the Federation of the Poor fell naturally into three areas of interest: (1) those interested in welfare rights; (2) those interested in housing -- Tenants' Councils; and

(3) those interested in the anti-poverty programs in communities throughout the state.

In accordance with the above resolutions, Council members have been busy helping to organize Welfare Rights groups in various parts of the state: Dr. tenBroek, Muz Marcelino and Al Jenkins served on a committee which prepared a draft of a constitution to be presented at the second convention of the poor, a constitution for a statewide Welfare Rights Organization. Jerry Drake has been working in the Los Angeles area and I have been working in San Bernardino County.

The second convention of the poor was scheduled for Fontana, a small poverty-stricken community in San Bernardino County, and so I was asked by the state convention chairman, Mr. Willie Thompson, to help with the mechanics of organizing this convention. This was a real thrill for me. I met many new people in my community and was pleased to gain their trust and confidence as we worked together toward a common goal.

The convention was held on the first week-end in June in the auditorium of the Fontana High School. In spite of the fact that no money was available for poor persons to attend from various parts of the state, almost 200 persons were registered, many from hundreds of miles away. The fact that these poor persons were willing to spend money from incomes, many of which are barely subsistence level, attests to the zeal of the people involved in this new movement. Council members attending this convention included Mr. and Mrs. Al Jenkins, Dr. and Mrs. Jacobus tenBroek, Muz Marcelino, Jerry Drake, my husband and myself, and Lily Craft, President of the Inland Empire Chapter, with her husband, and other chapter members.

On Saturday morning the convention divided into workshop seminars in the three areas of interest mentioned above. The welfare rights workshop was chaired by Dr. tenBroek. A sample constitution was read and discussed article by article, section by section, and from this discussion a permanent constitution began to emerge....

On Sunday morning the workshops reconvened to complete their business. At this time, history was made. A California Welfare Rights Organization was formed with a constitution finally completed. Officers will be elected and a welfare rights convention held later in the year, but the first resolution to be passed by the new organization, condemned night raids and bad checks against welfare recipients and declared the organization's intention to actively support Benny Parrish in his fight for reinstatement in a position from which he was dismissed for refusing to participate in night raids on the homes of welfare recipients.





BUSMAN'S HOLIDAY: Franklin Van Vliet, NFB treasurer, in private life an electronics technician, shown taping the Louisville convention.



MONITOR CORRESPONDENTS: Mr. and Mrs. Henry Sloan, of New York City, who clip the New York newspapers daily for THE BRAILLE MONITOR.

We must work diligently to implement the resolutions which will make it possible for us to cooperate with recipients of AFDC in their fight against discrimination and indecencies such as night raids. When anti-welfare legislation is brought forward in 1967, many more voices will be added to that of our Council's advocate and council members who have lobbied in behalf of a decent welfare program....

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### MONITOR MINIATURES

George E. Burck of Leonardo, New Jersey, an active worker with the New Jersey Blind Men's Association for more than 35 years, was reappointed to his fourth term on the State Board of Public Welfare and to his third term on the Board of Managers of the New Jersey Commission for the Blind.

The Kentucky Federation of the Blind met immediately after the NFB convention adjourned in Louisville and elected the following officers to serve one year: R.E. Whitehead of Louisville, president; Mrs. Margaret Bourne, also of Louisville, first vice president; Mrs. Mae Budesheim, Ashland, second vice president; Orville Phillips, Henderson, third vice president; Mrs. B. J. Becker, Louisville, corresponding secretary; John Steele, Henderson, recording secretary; Harold Reagan, Louisville, treasurer, and Rev. George McDermott, Louisville, chaplain. President Whitehead appointed Glenn Shoulders, Louisville, as finance chairman and Mrs. Ray Vice, Frankfort, as Kentucky legislation chairman.

Judge Emil N. Baar of New York City, former New York State Supreme Court Justice, has been elected president of the Jewish Braille Institute of America, for a two-year term.

Leona of Pennsylvania asks a question: Dear Editor, Does the National Federation of the Blind have a policy concerning the election and voting of the state delegates at its conventions? Are the delegates appointed or elected, and does the chosen person vote as he pleases, or does he get the thinking of others in the delegation and vote as the group's representative?

From The New Beacon, London, June 1966: Fourteen-year-old



Kevin Carey won first place for his essay submitted in braille on parliamentary government and democracy in the Hansard Society's contest celebrating the 700th anniversary of Simon de Montfort's parliament. Kevin, who lives at St. Vincent's School for the Blind, Liverpool, was competing with secondary pupils in 12,000 British schools.

William E. Normand, as president, heads the slate of newly-elected officers of the Greater Springfield (Massachusetts) Association of the Blind. Others elected are Miss Anita M. O'Shea, vice president; Helen Rowell, treasurer; Bernard Cummings and Mrs. Cecile La Croix, members-at-large, and Wallace Hayes, sergeant-at-arms. Emmet Haskell was appointed the chapter's legislative chairman.

The Associated Blind of Watertown, Massachusetts, elected Albert Czub as their new president; Mrs. Mary Castonguay as first vice president; Mrs. Esther Connelly, second vice president; Mrs. Mary Czub, recording secretary; Miss Gloria Charbonneau, corresponding secretary; Daniel Lynch, treasurer; Joseph Jablonski, sergeant-at-arms; Annie Mitchell and Doris Nicholas, lay members; and Mrs. Blanch Lynch, Edward Connelly and Donald Lorraine, trustees.

The Arizona State Department of Public Welfare announced the establishment of the Division of Rehabilitation for the Visually Impaired as a separate major organizational unit within the agency. The action was taken to comply with requirements contained in Federal Vocational Rehabilitation Act amendments. Richard W. Bleecker has been appointed Director of the Division which will include four principal operating units: vocational rehabilitation, sight conservation, business enterprises, and research and development.

Active Alabama Federation leader and its immediate past president Calvin Wooten of Anniston was featured in the June 1966 issue of SOUNDBOARD, the house organ of Kohler & Campbell, a piano manufacturing company. Wooten is a technician and dealer in pianos in Anniston.

From the Palmetto Auroran of the South Carolina Aurora Club of the Blind, July 1966: Aurorans who made the trip to the National Convention in Louisville did not do so without some excitement. While en route to Louisville, a hit and run driver ran into the rear of the (Marshall) Tucker's automobile, knocking it into the rear of the



(Donald) Capps' automobile. Fortunately, there were no serious injuries or damages.

Walter Weber is interested in corresponding with any blind person, or partially blind person, who is connected with newspaper work in any way -- this does not include school newspapers. Please write to Walter Weber, Monroe News, Box A, Jamesburg, New Jersey 08831.

The first two Project Development Grants to help citizen groups plan the construction of sheltered workshops for disabled persons were announced by Miss Mary E. Switzer, Commissioner of Vocational Rehabilitation, U.S. Department of Health, Education and Welfare.

An \$8,703 grant was made to the Fresno (California) Community Workshop, and funds totaling \$9,670 will be invested in planning its new workshop project. The grantee's share of the cost is \$967.

The other federal grant of \$5,500 was awarded to the Committee to Plan a Community Workshop in New Orleans. The total to be involved in its project is \$9,702, of which \$4,202 will be provided by the sponsor.

Although blind, Daniel A. Mazzeo runs The Pennsylvania State University snack bar, is the campus checker champion, and serves the best ham and eggs in University Park, Pennsylvania.

From the OCB Alumni Newsletter, June 1966: Two new members have been added to the staff of the California Orientation Center for the Blind in Albany: John Bessire, who will teach braille and typing, and James Lassen, mobility instructor. Bessire, blind since youth, has spent 20 years as a church-worker and has taken San Francisco State College's special blind program. Lassen received a B.A. in physical education from the University of Illinois and has had 10 years of mobility instruction at Hines Veterans Hospital.

At the Orientation Center Alumni Breakfast during the California Council Meeting in Oakland last May, Arturo Baca, totally blind public high school language teacher in San Rafael, California, reported on his work with "Amigos Anonymous" in Mexico. For the last two years he and his wife, Mary, have spent their summer vacations working with this worthwhile people-to-people program.

As president of the host affiliate, the Kentucky Federation of the Blind, of the Louisville convention, R.E. (Bob) Whitehead writes, "Things I thought you might like to know that came out of the convention.

"A school teacher who is rapidly loosing her eyesight is preparing to fight for her job after talking with Dr. Isabelle Grant.

"A taxi driver said, 'You can't feel sorry for these people, they won't let you.'

"Tiny Beetle won six dollars on the first horse race she ever attended.

"Dr. Harry Sparks, superintendent of Public Instruction, said, 'The scouts were so efficient they tried to help me from the elevator to the Flag Room.'

"Thelma Stovall, Secretary of State, State Office Building, Frankfort, is so enthused that she wants more literature to fight the good fight."

From The Machinist, July 28, 1966: The Union Eye Care Center, Inc., in Cleveland celebrated its seventh anniversary by opening its fifth and most extensive eye care center. The cooperative, by now one of the largest operations of its kind in the world, offers high-quality low-cost eye care, soliciting affiliations on the basis of 25 cents per union member.

A new dimension has been added to the game of chess. Klaus Nitz, a member of IAM Lodge 48, Chicago, has applied for a patent on three-dimensional chess, a game similar to chess but bigger, with 92 playing pieces on an uneven playing surface of wooden cubes rising to different levels. Nitz says that it helps to think of the board as a square building eight rooms wide, with a depth of eight rooms and a height of eight levels.

A blind University of Western Australia musician, Alan Mapson, is anxious to correspond with a blind musician in the United States who may assist him in getting inexpensive copies of published braille music such as the works of Bach. Those interested in contacting Mapson should write to him at 33 Temple Street, Victoria Park, Western Australia.





CONVENTION VISITOR: Mrs. Evans, mother of Anna Katherine Jernigan, shown here third from left, seated with members of Iowa delegation.

Not knowing what to expect of blind people, Cliff, the driver of the chartered bus that took 44 Iowans to the NFB convention in Louisville, was quiet and hesitant the first part of the trip. He soon learned, however, that these people were as fun loving and normal as any other group and that mobility was no problem for any one of them. His confidence in these Iowans was displayed the afternoon of the trip when he pulled into a drive-in and announced, "Ice cream across the road and straight ahead." He knew that no more instruction or assistance was needed on his part.

Among the honored guests at the Louisville convention were Mr. and Mrs. J.C. Jernigan of Tennessee, the parents of Ken Jernigan.

From the Readers' Digest, August 1966: One of the staff members of the Industrial Home for the Blind in Brooklyn was on a subway platform during a power blackout. He made his way to a phone booth to call his wife. Others, hearing him dial, lined up behind him, and he spent the next hour helping the sighted make calls.

Conventions are harder on some than others: John Nagle returned home for a week in bed with viral pneumonia -- those who thought he was cranky at the convention now know why. On the Monday morning after the convention Perry Sundquist checked in with his dentist to have an abscessed tooth removed. President tenBroek checked into the Alta Bates Hospital in Berkeley for surgery.

For service, prices, and quality of food you've got to go some to beat the Blue Boar Cafeteria, down the block from the Kentucky Hotel in Louisville.

The executive committee meeting on July 6 in Louisville was delayed for some time while the members made their way back from the printing house in a rain storm that generally left the town in a shambles.

Feminine members of the Iowa delegation could be observed in the Kentucky Hotel swapping name tags in order to use each other's beauty parlor appointment.

Hazel tenBroek's picture-taking for the inkprint MONITOR at the Louisville convention came to an abrupt halt after she snapped Gysbertus Veldhuizan -- the flashbulbs from her camera exploded all over the place.

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## THE DISABLED IN THE LAW OF TORTS

By Professor Jacobus tenBroek

[ Editor's note: The full title of this article, of which the first part is herewith reprinted, is "The Right to Live in the World: The Disabled in the Law of Torts." It was prepared by Professor tenBroek in conjunction with the Berkeley Conference he organized in February, 1966, on the Law of the Poor -- a symposium consisting of scholars from all over the nation who were invited to submit papers. Another article contributed to the same symposium is "The Legal and Constitutional Status of the Physically Handicapped," jointly authored by Professor tenBroek and Professor Floyd Matson. "The Right to Live in the World" is published in the CALIFORNIA LAW REVIEW, May, 1966, and will be republished along with the other symposium papers in a forthcoming volume edited by Professor tenBroek, The Law of the Poor, to be published by Chandler Publishing Company, San Francisco.

"The Right to Live in the World" is a survey and analysis of legal doctrines and provisions governing the right of the blind and the otherwise physically disabled: to full and equal access to places of public accommodation, resort and amusement; to use the streets and highways with reasonable safety in automobile traffic and amid the normal sidewalk hazards; to ride upon buses, trains, airplanes, taxis and other public conveyances and common carriers; to have entry to and use of public buildings and other public places free from architectural barriers that especially interfere with the physically disabled; to have the benefit in their travels of guide dogs and white canes. The article represents a reinterpretation of conventional legal concepts in the light of modern conditions and the policy of integrating the physically disabled into the normal life of the community.

The bulky footnotes accompanying the article are omitted in the braille edition of the MONITOR. Complete copies of the inkprint article are available from NFB National Headquarters, 2652 Shasta Road, Berkeley, California 94708. Complete copies in braille will be available after serial publication in the MONITOR. ]





# The Right to Live in the World: The Disabled in the Law of Torts†

Jacobus tenBroek<sup>®</sup>

MOVEMENT, WE ARE TOLD, is a law of animal life. As to man, in any event, nothing could be more essential to personality, social existence, economic opportunity—in short, to individual well-being and integration into the life of the community—than the physical capacity, the public approval, and the legal right to be abroad in the land.

Almost by definition, physical disability in many of its forms entails difficulties in getting about, and this is so quite regardless of the particular surroundings. Such is the case of the cripple, the paraplegic, and the legless. The word "halt" itself is a description of disability in terms of limitation on mobility. Some difficulties in getting about arise out of the conditions of the modern world in combination with the particular disability, as in the case of the deaf person in traffic. However different from what they are widely supposed to be, there are travel problems inherent in blindness and these are to some extent increased, to some extent diminished, by the structures and conditions of modern urban

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† Author's Note: If the blind appear in these pages more than other disabled, it may be because the author is blind and has a special interest in his kind. He thinks not, however. The fact is that the blind individually and collectively are a very active group of the disabled, if not the most active. If the National Federation of the Blind appears in these pages more often than other organizations and agencies composed of the blind or dealing with their problems, it may be because the author founded that organization in 1940, served as its president for 21 years, and is still an active leader in it. He thinks not, however. The National Federation of the Blind is an aggressive, militant, activist organization of the blind themselves which in a quarter of a century has achieved a great deal, legislatively and otherwise, and has always been in the thick of the fight. If the *Braille Monitor* is cited more often than other magazines, it may be because the author is editor of that journal. He thinks not, however. That journal specializes in information and coverage which have a special relevance to the issues here discussed.

This article is amply flecked with footnotes, citing a wide range of formal materials. The views expressed, the author believes, are verified by his personal experience as a disabled individual far more than by all the footnote references put together.

The author wishes to acknowledge his indebtedness to the following persons for their services as research assistants: Fay Stender, Robert Platt, Gary Shelton, Warren Deras, Barry McGough, Ken Cloke and Charles Miller; and to the Institute of Social Sciences of the University of California, Berkeley and the National Federation of the Blind for making these services available.

<sup>®</sup> A.B. 1934, M.A. 1935, LL.B. 1938, J.S.D. 1940, University of California, Berkeley; S.J.D. 1947, Harvard University, D.Lit. 1956, Findley College, LL.D., 1964, Parsons College. Member 1950-63, Chairman 1960-63, California State Social Welfare Board. Professor of Political Science, University of California

life and activities. In its 1962 survey of the characteristics of those receiving federal-state aid to the permanently and totally disabled, the Department of Health, Education and Welfare concluded that twenty-nine per cent are confined to the home because of physical or mental conditions, a conclusion apparently based on the responses of the recipients themselves rather than on medical evidence of physical capacity.<sup>1</sup> Of the roughly 85,000 aid-to-the-blind recipients, presumably the least active segment of the blind population, only 15.9 per cent are so confined.<sup>2</sup>

The actual physical limitations resulting from the disability more often than not play little role in determining whether the physically disabled are allowed to move about and be in public places. Rather, that judgment for the most part results from a variety of considerations related to public attitudes, attitudes which not infrequently are quite erroneous and misconceived. These include public imaginings about what the inherent physical limitations must be; public solicitude about the safety to be achieved by keeping the disabled out of harm's way; public feelings of protective care and custodial security; public doubts about why the disabled should want to be abroad anyway; and public aversion to the sight of them and the conspicuous reminder of their plight. For our purposes, there is no reason to judge these attitudes as to whether they do credit or discredit to the human head and heart. Our concern is with their existence and their consequences.

To what extent do the legal right, the public approval, and the physical capacity coincide? Does the law assure the physically disabled, to the degree that they are physically able to take advantage of it, the right to leave their institutions, asylums, and the houses of their relatives? Once they emerge, must they remain on the front porch, or do they have the right to be in public places, to go about in the streets, sidewalks, roads and highways, to ride upon trains, buses, airplanes, and taxi cabs, and to enter and to receive goods and services in hotels, restaurants, and other places of public accommodation? If so, under what conditions? What are the standards of care and conduct, of risk and liability, to which they are held and to which others are held with respect to them? Are the standards the same for them as for the able-bodied? Are there legal as well as physical adaptations; and to what extent and in what ways are these tied to concepts of custodialism or integrationism?

<sup>1</sup> U.S. Dep't of Health, Educ. & Welfare State Letter No. 747, Table 27, July 2, 1964.

<sup>2</sup> U.S. Dep't of Health, Educ. & Welfare, State Letter No. 746, Table 32, July 2, 1964. Roughly 40% travel with family members, friends, or paid guides, 14.3% with canes; 1% with dogs; 22.7% travel alone and without a cane. *Ibid.*

## I

## THE POLICY OF INTEGRATIONISM

*A. Integrationism the Answer*

It is the thesis of this paper that the answers to these questions to be returned by the courts, other agencies of government, and other public and private bodies should be controlled by a policy of integrationism—that is, a policy entitling the disabled to full participation in the life of the community and encouraging and enabling them to do so—that this policy is now, and for some time has been, the policy of the nation, declared as such by the legislatures of the states and by the Congress of the United States; and that the courts and others are thus bound to use that policy at least as guide, if not as mandate, in reaching their decisions, whatever may be their views as to its desirability or feasibility.

The policy of integrationism is implicitly and explicitly adopted by the nation and by all of the states in the set of laws, agencies and activities known as the Rehabilitation Program. Commenced in several of the states as long ago as 1918 and 1919,<sup>3</sup> and given national support by Congress in 1920,<sup>4</sup> that program has been enlarged in conception and increased in funding by successive legislative amendments,<sup>5</sup> by the impact of World War II, by pressures from organized groups of the disabled, and by a growing sense of its importance and potentialities.

At the head of the 1965 Rehabilitation Act Amendments stands this declaration: "The Secretary is authorized to make grants as provided in . . . this title for the purpose of assisting States in rehabilitating handicapped individuals so that they may prepare for and engage in gainful employment to the extent of their capabilities, thereby increasing not only their social and economic well-being but also the productive capacity of the Nation."<sup>6</sup> Specifically, the federal grants are to be made to these states to aid them in meeting the costs of rehabilitation services,<sup>7</sup> making innovations in those services,<sup>8</sup> expanding them by planning and initiating special services,<sup>9</sup> developing a comprehensive rehabilitation

<sup>3</sup> E.g. Gen. Acts of Mass. 1918, ch. 231, at 201-02; Cal. Stats. 1919, ch. 183, at 273-74; Laws of Ill. 1919, S.B. No. 449, at 534-37; Laws of Minn. 1919, ch. 365, at 389-90; New Stat. 1919, ch. 182, at 329; Laws of N.J. 1919, ch. 74, at 138-44. For a general history of vocational rehabilitation, see OBERMANN, A HISTORY OF VOCATIONAL REHABILITATION IN AMERICA (1965).

<sup>4</sup> 41 Stat. 735.

<sup>5</sup> 57 Stat. 374 (1943), 68 Stat. 652 (1954), 79 Stat. 1282 (1965).

<sup>6</sup> 79 Stat. 1282, 29 U.S.C. § 31 (Supp. I, 1965).

<sup>7</sup> 79 Stat. 1282, 1283, 29 U.S.C. §§ 31-33 (Supp. I, 1965).

<sup>8</sup> *Ibid.*

<sup>9</sup> 79 Stat. 1282, 1289, 29 U.S.C. § 34(a) (Supp. I, 1965).

plan in each of the states,<sup>10</sup> and for rehabilitation research.<sup>11</sup> demonstration,<sup>12</sup> and training projects.<sup>13</sup> The federal Vocational Rehabilitation Administration is authorized to conduct research and gather and disseminate information with respect to the abilities, aptitudes and capacities of handicapped individuals, development of their potentialities, and their utilization in gainful and suitable employment.<sup>14</sup> The 1965 Amendments also increase the appropriation for the earlier-created President's Committee on National Employ the Physically Handicapped Week<sup>15</sup> to carry out the function indicated by its title, to stimulate similar committees in the states, and to sponsor the annual event known as "Employ the Handicapped Week."<sup>16</sup> The purpose of the 1965 Amendments, said the House Committee on Education and Labor,<sup>17</sup> is "to provide the physically and mentally disabled persons of this Nation an improved and expanded program of services which will result in greater opportunities for them to more fully enter into the life of our country as active participating citizens."<sup>18</sup>

According to the 1964 annual report of the federal Vocational Rehabilitation Administration, in that year 119,000 disabled persons were rehabilitated through this program into productive activity and employment at an expenditure by states and nation of \$133,000,000; 795 research and demonstration projects were conducted at a cost to the government of \$15,179,000; and 447 teaching programs and 3,259 traineeships and research fellowships were granted at a cost of \$16,528,000.<sup>19</sup> Of the rehabilitated persons, over seventy per cent were unemployed when they entered the rehabilitation process, and most of the remainder had low earnings; about 16,000 were recipients of public assistance, and about 5,200 resided in tax-supported institutions.<sup>20</sup> With rehabilitation funds, scores of communities and organizations have been aided in the construction of comprehensive rehabilitation centers, special centers for specific disabilities, and clinics in connection with hospitals—all devoted to reducing and preventing dependency and thereby furthering the policy of integrationism.<sup>21</sup>

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<sup>10</sup> *Ibid.*

<sup>11</sup> 79 Stat. 1282, 1291, 29 U.S.C. § 37(a) (Supp. I, 1965).

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

<sup>15</sup> Joint Resolution, 63 Stat. 409 (1949).

<sup>16</sup> 79 Stat. 1282, 1294, 29 U.S.C. § 38 (Supp. I, 1965).

<sup>17</sup> H.R. REP. NO. 432, 89 CONG., 1ST SESS. (1965).

<sup>18</sup> *Id.* at 2.

<sup>19</sup> 1964 U.S. DEPT. OF HEALTH, EDUC. & WELFARE ANN. REP. 327-29.

<sup>20</sup> *Id.* at 329.

<sup>21</sup> *Id.* at 330, 331.

All of the states receive grants-in-aid from the federal government under the vocational rehabilitation acts and necessarily commit themselves to the implicit and explicit policy of those acts of maximum integrationism for the disabled. In California, for example, an act coordinate to the national act has been in existence since 1919.<sup>22</sup> It currently vests state officials "with all necessary powers and authority to cooperate with the government of the United States"<sup>23</sup> and declares: "It is the public policy of the State of California to assist and encourage handicapped individuals to attain their maximum usefulness and self-sufficiency in order that they may make their full contribution to society."<sup>24</sup> Other state services and institutions such as the home-teacher-counselor service<sup>25</sup> and the Orientation Center for the Blind<sup>26</sup> espouse this policy with equal emphasis.

With this very same objective in mind, the public assistance titles of the Social Security Act have been amended: (1) to declare self-support one of the purposes of that act with respect to the blind and the permanently and totally disabled;<sup>27</sup> (2) to encourage the provision of services to help recipients attain or retain capability for self-support or self-care or likely to prevent or reduce dependency;<sup>28</sup> (3) to permit the blind and disabled to retain, without consequence to their aid eligibility or grant, other income and resources necessary to fulfill a plan for self-support;<sup>29</sup> (4) to exempt various amounts of earned income from consideration in determining the amount of the blind and disabled aid grants;<sup>30</sup> and, (5) to require that the states provide an incentive for employment giving consideration to any expenses reasonably attributable to the earning of income.<sup>31</sup> All of these amendments were designed to add new dimensions to the rehabilitative aspects of the public assistance programs.<sup>32</sup> From its beginning in 1954, the disability insurance program has contained a declaration that it is "the policy of the Congress that

<sup>22</sup> Cal. Stats. 1919, ch. 183, CAL. EDUC. CODE, ch. 10.5.

<sup>23</sup> CAL. EDUC. CODE § 6977.

<sup>24</sup> CAL. EDUC. CODE § 6971.

<sup>25</sup> CAL. EDUC. CODE § 6209.

<sup>26</sup> CAL. EDUC. CODE § 6201-08.

<sup>27</sup> 70 Stat. 807, 849 (1956), 42 U.S.C. § 1201, 1351 (1964).

<sup>28</sup> 76 Stat. 172 (1962), 42 U.S.C. §§ 303, 1201, 1351 (1964).

<sup>29</sup> 49 Stat. 645 (1935), as amended, 42 U.S.C. §§ 1201-06 (1964), as amended by 79 Stat. 286, 42 U.S.C. §§ 1201-06 (Supp. I, 1965); 64 Stat. 555 (1950), as amended, 42 U.S.C. §§ 1351-55 (1964), as amended by 79 Stat. 286, 42 U.S.C. §§ 1202, 1382 (Supp. I, 1965); 76 Stat. 197 (1962), 42 U.S.C. §§ 1381-85 (1964).

<sup>30</sup> 79 Stat. 286, 418 (1965), 42 U.S.C. §§ 1201 (blind), 1351 (disabled) (Supp. I, 1965).

<sup>31</sup> 53 Stat. 1397 (1939), as amended, 42 U.S.C. § 1202 (Supp. I, 1965); 76 Stat. 172, 199 (1962), 42 U.S.C. § 1382 (1964).

<sup>32</sup> S. REP. NO. 1589, 87th Cong., 2d Sess. 2, 3, 17-18, 21 (1962); S. REP. NO. 1856, 86th Cong., 2d Sess. 52 (1960); S. REP. NO. 2133, 84th Cong., 2d Sess. 29 (1956).

disabled individuals applying for a determination of disability, and disabled individuals who are entitled to child's insurance benefits, shall be promptly referred" to the state rehabilitation agency, "for necessary vocational rehabilitation services, to the end that the maximum number of such individuals may be rehabilitated into productive activity."<sup>33</sup>

Rehabilitation reaches its point of culmination in remunerative employment and self-support through jobs in the common callings, industry, agriculture, independent businesses, and the professions. This congressional policy is implemented primarily through the obligation of rehabilitation counselors and other officials to assist disabled persons in finding such employment. Persuasion and demonstration are the accepted techniques. In some areas, however, there are and have been legal barriers to the employment of the disabled; elsewhere, private resistance has not yielded to persuasion and demonstration. Here the public commitment to the policy of integrationism has required legislative or judicial action. Legislative action has often been forthcoming, judicial action seldom. Congress has forbidden discrimination against the handicapped in the federal civil service.<sup>34</sup> A number of states, beginning with California in 1939,<sup>35</sup> have laid down a similar ban.<sup>36</sup> In addition some states have enacted special statutes prohibiting such discrimination with respect to teaching in the public schools,<sup>37</sup> social work,<sup>38</sup> physical therapy,<sup>39</sup> and the practice of chiropractic.<sup>40</sup>

Four other extensive legislative programs—the so-called architectural barriers statutes, the programs for the education of disabled children and youth in the regular public schools and colleges, the guide dog laws, and the white cane laws—are built upon an integrationist foundation and necessarily imply an integrationist objective. The architectural barriers statutes provide that public buildings and facilities hereafter constructed or remodeled shall be made "accessible to and functional for" the physically handicapped,<sup>41</sup> presupposing that the physically handicapped will make their way to such buildings and facilities and have occasion to be in them. The programs for the education of disabled students in the

<sup>33</sup> 68 Stat. 1052, 1082 (1954), 42 U.S.C. § 422 (1964).

<sup>34</sup> 22 Stat. 403 (1883), as amended, 5 U.S.C. § 633(2)9 (1964).

<sup>35</sup> Cal. Stats., 1939, ch. 139, § 1 now contained in CAL. GOV'T CODE § 19701.

<sup>36</sup> IDAHO CODE ANN. § 59-1025 (Supp. 1965); MO. STAT. ANN. § 36.180 (Supp. 1965); WIS. STAT. ANN. §§ 63.32, 63.33 (Supp. 1965); N.Y. CIV. SERV. LAW § 55 (Supp. 1965).

<sup>37</sup> CAL. EDUC. CODE § 13125; MASS. GEN. LAWS ANN., ch. 71, § 38G (Supp. 1965); N.Y. EDUC. LAW § 3004; 24 PA. STAT. ANN. § 12-1209 (1959).

<sup>38</sup> CAL. BUS. & PROF. CODE § 9030.

<sup>39</sup> CAL. BUS. & PROF. CODE § 2631.

<sup>40</sup> CAL. BUS. & PROF. CODE §§ 1000-8.1.

<sup>41</sup> For a review of these statutes see text accompanying notes 102-31 *infra*.



public schools are supported by legislation opening the public schools to the blind and deaf, providing special tools, equipment, books, and supplementary teaching services, appropriating funds to enable blind students to hire sighted readers, and exempting scholarships from consideration in determining the amount of the blind aid grant.<sup>42</sup> Guide dog legislation strikes down restrictions on the use of the dog by the blind, and sometimes by other incapacitated persons, on common carriers, in public places and buildings, and in places of public accommodation.<sup>43</sup> The white cane laws are intended to make it safer for blind persons who travel with the aid of this device.<sup>44</sup> Congress in a Joint Resolution,<sup>45</sup> and the President in two Proclamations<sup>46</sup> setting aside a White Cane Safety Day, have emphasized that the cane is not only a useful travel aid but also a symbol of the independence and the social and economic integration of the blind.

From the foregoing, it is abundantly clear that integration of the disabled is the policy of the nation. This policy has been expressed by Congress and by the state legislatures, not once, but many times, and not merely with respect to a single, narrow area of human endeavor, but with respect to the whole broad range of social, economic, and educational activity backed up with numerous specially created agencies and instrumentalities of government, with affirmative assistance and negative prohibitions, and with vast expenditures of money amounting to hundreds of millions of dollars each year.

The basic question to which we seek an answer is this: How has this legislative policy of integrationism fared in the courts, and particularly in the law of torts? Has the law of torts been redirected and remolded according to the prescriptions of the policy? What redirecting and remolding do these prescriptions require?

### *B. Implications of Integrationism for the Law of Torts*

According to the policy of integrationism, the disabled are not to be confined to their houses, asylums, and institutions—threatened, if they emerge, with not only social sanctions but legal sanctions as well, in the form of legal barriers, disadvantages, and inadequate protections. Nature may confine them to an iron lung, a bed, a wheel chair, straps, braces, or crutches, or to mouldering in health and idleness in chair-bound

<sup>42</sup> See, e.g., CAL. EDUC. CODE §§ 6821, 9354, 10651, 18060, 18060.2, 18102, 18103, 18106; CAL. WELFARE & INST'NS CODE §§ 12800, 18600-870.

<sup>43</sup> For a review of these statutes see text accompanying notes 69-102 *infra*.

<sup>44</sup> For a review of these statutes see text accompanying notes 360-411 *infra*.

<sup>45</sup> 78 Stat. 1003 (1964).

<sup>46</sup> 29 Fed. Reg. 14051 (1964); 30 Fed. Reg. 12931 (1965).

blindness. Mistaken public and family attitudes and the dependent law may not so confine them. Such confinement would in effect be a form of house arrest, which in the houses of the poor may not be noticeably different from outright imprisonment. Personal liberty, in this basic sense of the right not to be unjustly or causelessly confined, has been taken as a fundamental, natural, and social right in Chapter 39 of Magna Charta and the due process clauses of federal and state constitutions. If the disabled have the right to live in the world, they must have the right to make their way into it and therefore must be entitled to use the indispensable means of access, and to use them on terms that will make the original right effective. A right on such terms to the use of the streets, walks, roads and highways is a rock-bottom minimum. The right to gain access to the world in which they have a right to live must also include, as a part of the same rock-bottom minimum, the right to utilize the common thoroughfares by riding on common carriers. Upon descending from these, the disabled have a right of uninhibited and equal access to places of public accommodation to seek their ease, rest, sustenance, or recreation.<sup>47</sup>

## II

### THE RIGHT TO LIVE IN THE WORLD—THE ABLE-BODIED AND THE DISABLED

With respect to able-bodied groups and individuals, the basic rights of effective public access have been long established and newly vindicated.

<sup>47</sup> Places of public accommodation are defined in some of the state acts in general terms; in others by specific listing. Utah's statute illustrates the former method: "All persons within the jurisdiction of this state are free and equal and are entitled to the full and equal accommodations, advantages, facilities, privileges, goods and services in all business establishments and in all places of public accommodation of every kind whatsoever . . ." UTAH CODE ANN. § 13-7-1 to 13-7-4 (Supp. 1965); the ordinance of Rockville, Maryland, Ordinance 43-64, 1965, 9 Race Relations Rep. 1895 (1964-65), illustrates the exhaustive list method:

Section 13-2.02 . . . a. Any inn, hotel, motel or other establishment which provides lodging to transient or permanent guests.

b. Any restaurant, cafeteria, lunchroom, lunch-counter, soda fountain, or other facility principally engaged in selling food or beverages, whether alcoholic or not, for consumption on or off the premises, including, but not limited to, any such facility located on the premises of any retail establishment, or any gasoline station;

c. Any motion picture house, theater, concert hall, meeting hall, sports arena, stadium, recreation park, amusement park, picnic grounds, fair, circus, carnival, skating rink, swimming pool, tennis court, golf course, playground, bowling alley, gymnasium, shooting gallery, billiard or pool room, or any place used for common or public entertainment, exhibition, sports or recreational activity or other assembly;

d. Any retail store engaged in selling commodities of any type to the public;

e. Any service establishment serving the public, including but not limited to all hospitals, clinics, barber shops, beauty parlors, business or commercial services, repair services, or other services of any type offered to the public.

cated. They were safeguarded at the common law as to roads and streets, inns, other victualers, ferries, horseshoers, and carriers.<sup>48</sup> Three quarters of the states of the Union implicitly assume their general applicability while forbidding the discriminatory denial of them on the basis of race, creed, color, or ethnic origin.<sup>49</sup> Through the Civil Rights Act of 1875,<sup>50</sup> Congress sought to give them national protection. They were generally acknowledged, and, in part, expressly affirmed, by the United States Supreme Court in 1883 at the time the Civil Rights Act of 1875 was held not to be authorized by the fourteenth amendment.<sup>51</sup> In the debates upon the Civil Rights Act of 1964, these rights were loudly proclaimed.<sup>52</sup> The Senate Commerce Committee saw the denial of the right of equal access as an affront to human dignity,<sup>53</sup> the guarantee of the right as the "time honored means to freedom and liberty,"<sup>54</sup> and public accommodations themselves as existing "for the purpose of enhancing the individual freedom and liberty of human beings."<sup>55</sup> The House Judiciary Committee thought the right of equal access to public accommodations "so distinctive in nature that its denial constitutes a shocking refutation of a free society." "[T]he badge of citizenship . . . demands that establishments that do public business for private profit not discriminate . . ."<sup>56</sup> President Lyndon Johnson in sponsoring enactment of the Civil Rights Act of 1964 declared "this is not merely an economic issue—or a social, political or international issue. It is a moral issue. . . . All members of the public should have equal access to facilities open to the public."<sup>57</sup> The United

<sup>48</sup> *Kisten v. Hildebrand*, 48 Ky. (9 B. Mon.) 72 (1849) (dictum); *Markham v. Brown*, 8 N.H. 523 (1837); *DeWolfe v. Ford*, 193 N.Y. 397, 86 N.E. 527 (1908); *Hogan v. Nashville Inferuban Ry.*, 131 Tenn. 244, 174 S.W. 1118 (1915) (dictum); *Rex v. Irens*, 7 C. & P. 213, 173 Eng. Rep. 94 (1835); *Boss v. Lytton*, 5 C. & P. 407, 24 E.C.L. 628 (K.B. 1832); *Lane v. Cotton*, 12 Mod. 472 (1701); *White's case*, 2 Dyer Rep. 158 (1558); *De Termino Pascal*, *Keilway* 50, Pl. 4 (1450); 3 BLACKSTONE, COMMENTARIES \* 166; Hale, 1 HARG. LAW TRACTS 78 (1787).

<sup>49</sup> See the list of thirty-two states supplied by Clark, J., in *Heart of Atlanta Motel, Inc. v. United States*, 379 U.S. 241, 259 (1964). For states not on Justice Clark's list see ARIZ. REV. STAT. ANN. §§ 41-1441, 41-1442 (Supp. 1965); Nev. Stat. 1965, ch. 332; UTAH CODE ANN. § 13-7-1 (Supp. 1965); MO. ANN. STAT. § 314.010 (Supp. 1965).

<sup>50</sup> 18 Stat. 335. That act forbade discrimination in "inns, public conveyances on land or water, theaters, or other places of public amusement . . ."

<sup>51</sup> *The Civil Rights Cases*, 109 U.S. 3, 24-25 (1883).

<sup>52</sup> See, e.g., 110 CONG. REC. 12876 (1964) (Remarks of Senator Humphrey); *id.* at 1928 (Remarks of Rep. Joelson); *id.* at 1519-21 (Remarks of Rep. Celler); *id.* at 1538-40 (Remarks of Rep. Rodino); *id.* at 1540-42 (Remarks of Rep. Lindsay); *id.* at 1601-02 (Remarks of Rep. Mathias).

<sup>53</sup> S. REP. NO. 872, 88th Cong., 2d Sess. 18 (1964).

<sup>54</sup> *Id.* at 22.

<sup>55</sup> *Ibid.*

<sup>56</sup> H. R. REP. NO. 914, Part 2, 88th Cong., 1st Sess. 7 (1963).

<sup>57</sup> State of the Union Message, 110 CONG. REC. 115 (1964).

States Supreme Court, in passing upon the constitutionality of that legislation, joined in the refrain that the denial of equal access was a social and moral wrong as well as a burden on commerce.<sup>58</sup> The act itself speaks of the entitlement of "all persons . . . to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation."<sup>59</sup>

So the rights at stake are not merely procedural; nor are they comparative. They are substantive and belong to all men. Evocative reference to these, rather than a truly comparative conception, lies at the heart of the movement and legislation to gain access to public accommodations. The language is that of the equal protection clause of the fourteenth amendment and of the Civil Rights Act of 1866.<sup>60</sup> The vision, ardor, and simple principles are those of the Abolitionists.<sup>61</sup> The rhetoric is replete with moral reform, social justice, and natural rights. The sentences end with a prohibition against discrimination based on race, creed, color, ancestry, or national origin. But they begin with the declaration that "all persons are entitled to the full and equal enjoyment . . . of privileges . . . and accommodations."<sup>62</sup> The legislation in Arizona drives the point home.<sup>63</sup> An exception to the ban on discrimination based on the listed grounds one would suppose, would permit discrimination on those grounds for particular purposes and presumably within narrow limits. Not so in Arizona. Assuming that a basic right of access is being guaranteed, the statute in that state provides that certain persons under certain conditions may be excluded. The excluded persons and conditions are unrelated to the forbidden grounds of discrimination. The persons are those who are of "lewd or immoral character," guilty of boisterous conduct or physical violence, under the influence of alcohol or narcotics, or who violate non-discriminatory regulations of the place.<sup>64</sup> And not a blind man or a cripple is among them.

However much mingled with talk about burden on commerce, however much buttressed with common law precedents and founded in history, however much explicitly designed to strike down discriminations based on race, color, religion, national origin and sex, however much a product of the modern-day civil rights revolution, aimed principally at

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<sup>58</sup> *Heart of Atlanta Motel, Inc. v. United States*, 379 U.S. 241, 257 (1964).

<sup>59</sup> 78 Stat. 241, 243, 42 U.S.C. § 2000(a) (1964).

<sup>60</sup> 14 Stat. 27.

<sup>61</sup> See TENBROEK, *EQUAL UNDER LAW* (1965); Graham, *The Early Anti-Slavery Backgrounds of the Fourteenth Amendment*, 1950 WIS. L. REV. 479, 610.

<sup>62</sup> *E.g.*, Civil Rights Act of 1964, 78 Stat. 241, 243, 42 U.S.C. § 2000(a) (1964); Nev. Stat. 1965, ch. 332, § 4; UTAH CODE ANN. §§ 13-7-1 to 13-7-3 (Supp. 1965).

<sup>63</sup> ARIZ. REV. STAT. ANN., ch. 27 (Supp. 1965).

<sup>64</sup> ARIZ. REV. STAT. ANN. § 41-1442(C) (Supp. 1965).

securing equal rights for colored persons, the statutes of the states in their present form, the Civil Rights Act of 1964, the congressional debates and proceedings upon it, and the judicial opinions validating its constitutionality—all, implicitly and explicitly, necessarily and unavoidably, are built upon a recognition of the absolute importance to the nation, community and individual, of persons having, holding, and enjoying rights of access to the community and to the public, quasi-public, and private instrumentalities necessary to make those rights effective.

Are humans to be denied human rights? Are persons after all not to be persons if they are physically disabled? Are members of the community to be robbed of their rights to live in the community, their certificates cancelled upon development or discovery of disability? These rhetorical questions, the hallmarks of crusade and reform throughout American history, have in our generation become the plea of the disabled as well. As with the black man, so with the blind. As with the Puerto Rican, so with the post-polio. As with the Indian, so with the indigent disabled.

Without legal redress in many areas, and with the frequency of arbitrary action, disabled persons have been turned away from trains, buses, and other common carriers, from lodgings of various sorts, from the rental of public and private housing, from bars, restaurants and places of public amusement, from banks to rent a safety deposit box, from other kinds of banks to give a pint of blood, and from gambling casinos in Nevada,<sup>65</sup> declared by statute as well as by common experience to be places in which the public is accommodated.<sup>66</sup>

In his widely used, much-quoted and, I think, justly celebrated text on the Law of Torts, Dean Prosser announces a remarkable proposition: "The man who is blind, or deaf, or lame, or is otherwise physically disabled, is entitled to live in the world. . . ."<sup>67</sup> Taken at its most literal level, surely this proposition proclaims a platitude. Obviously, we do not kill off our disabled, as the Greeks and Romans did their deformed babies. There is no campaign afoot in the land to extend euthanasia proposals from the incurably ill and the sufferers of unbearable pain to the halt, the lame, and the blind.

<sup>65</sup> Nev. Stat. 1965, ch. 532, § 1.

<sup>66</sup> tenBroek, *Cross of Blindness*, 23 VITAL SPEECHES 732 (1957).

<sup>67</sup> PROSSER, *TORTS* § 32, at 155 (3d ed. 1964). Among the "otherwise physically disabled," Dean Prosser lists: bone condition, *Wray v. Fairfield Amusement Co.*, 126 Conn. 221, 10 A.2d 600 (1940); crippled, lacking coordination on crutches, *Goodman v. Norwalk Jewish Center, Inc.*, 135 Conn. 146, 139 A.2d 812 (1958); short stature, *Mahan v. State, Use of Carr.*, 172 Md. 373, 191 Atl. 575 (1937); lame, *Bianchetti v. Luce*, 222 Mo. App. 282, 2 S.W.2d 129 (1927); club foot, *Texas & N.O.R.R. v. Bean*, 55 Tex. Civ. App. 341, 119 S.W. 328 (1909).

Read less literally, the right to live in the world is something more than the right to remain in it. Now Dean Prosser's proposition assumes something of the significance of one of Jefferson's self-evident truths—the inalienable right to life. In fact, Dean Prosser updates Thomas Jefferson: He moves from a noun to a verb—from the right to life to the right to live—and specifies, somewhat redundantly, that this shall be in the world. In the vernacular of the day, Dean Prosser is talking about the right “to live a little.”

Taken in its broader sense, Dean Prosser's proposition is amply capable of accommodating the most enlightened social policy for the physically disabled in the law of torts and elsewhere. Properly understood, that proposition might be taken as a definitive statement of the goals, as a comprehensive formulation of the policy of integrationism.

Dean Prosser's grand pronouncement, however, while purporting to be drawn from the case law, and while seeming to express for the law of torts the legislatively established policy of the integration of the disabled, is in no sense an accurate summary of the law of torts as that law stands today. The judges either qualify or ignore Dean Prosser's pronouncement and the integrationist policy. In some areas, the pronouncement and the policy are completely rejected; in others, they are given only halting and partial credence; and in none are they fully and positively implemented by the courts. Dean Prosser himself immediately emasculates his proposition.<sup>68</sup> He applies it only to a narrow realm of street accidents. And even there, while freeing the disabled of negligence *per se* for being where they are, he hobbles them with the views of the able-bodied as to what their reasonable conduct should be. In these areas, the sum total of the law's beneficence to the disabled seeking a full-fledged right to live in the world can be easily and briefly summarized: The courts, prodding the tardy genius of the common law, have extended a variant of the reasonable man concept to those who injure the disabled on the streets, in traffic, and on common carriers. This constitutes a meager and inadequate accomplishment in the light of the integrationist purpose and the legislative declaration of policy. Unawareness of the policy and its applicability in various situations, rather than considered judgment, as to its social importance, practicability, or relevance in the law of torts, seems to be the principal reason for the widespread disregard of the policy.

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<sup>68</sup> PROSSER, *op cit supra* note 67.





